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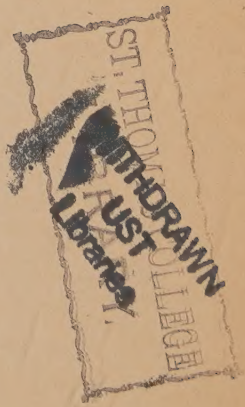
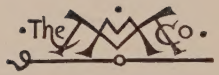


ETHICS

DESCRIPTIVE AND EXPLANATORY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ETHICS

DESCRIPTIVE AND EXPLANATORY

BY

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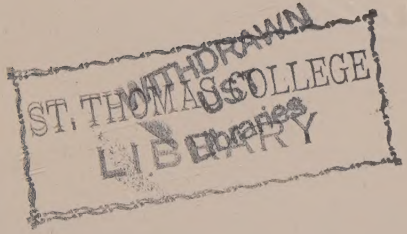

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To

MY HONOURED FRIEND AND FIRST TEACHER
IN PHILOSOPHY

GEORGE HOLMES HOWISON

I Gratefully Dedicate this Book

38333

PREFACE

THE purpose of the present book is to give as adequate, critical, and methodical an account as possible of what morality and immorality *are*. Its assumption is, that the best way of discovering what morality and immorality are is to examine the examples of these phenomena that are open to observation. And, of course, as in the case of other phenomena with a history, the evolution of morality will be studied, not only because it is interesting in itself, but because it throws light on the nature of morality, just as knowledge of the evolution of man has thrown much light on the nature of man.

This does not mean that moral and immoral conduct will be examined as physical phenomena. A theory of Ethics founded on the observation of conduct as a body of merely external or physical facts is bound to be inadequate and fallacious. Nowhere in the physical aspect of conduct is the "ought" to be found, and the moralists who limit their examination to that aspect pass fallaciously at some point from the "is" to the "ought to be."

But, on the other hand, a theory of Ethics founded on introspection alone is sure to be inadequate and unscientific. Inadequate, because there are many more moral phenomena besides those that appear in the consciousness of the writer. Unscientific, because, however moral the writer and however true his ethical views, these views, just as his personal opinions, are unproven.

Of course there are no moralists who limit themselves strictly either to introspection or to the physical point of view. But there are many who undertake to accept

either one or the other point of view, and many who are critical and methodical from one point of view and uncritical and unmethodical from the other point of view.

But morality is made up of the psycho-physical phenomena of conduct, moral and immoral, and of the purely psychic phenomena of conscience, which is a term that designates all judgments passed on and attitudes towards conduct. Consequently, introspection and the other methods of Psychology, together with the methods of Biology and of the natural sciences generally, will all be used. Any method in fact is used that throws light on the central question as to what morality is.

This book, then, is an attempt to construct a positive or purely scientific theory of Ethics, and to give a naturalistic account of all the aspects of morality and immorality, in so far, of course, as space limitations permit.

But while undertaking to write a scientific account of Ethics, I do not undervalue or fail to realize the need for a metaphysic of Ethics. The question, What is morality? can, I believe, be answered quite as scientifically as the question, What is a living being? and, accordingly, a scientific answer to the former question is here to be attempted. But there is another question which reads, What is the cosmic significance of morality? This is a profound question, at once interesting and important, and much more than science unaided can establish must be known before it can be fully answered. I agree with most of Mr. Balfour's conclusions as to evolutionary Ethics as a naturalistic theory in his *Foundations of Belief*. If science showed that morality is merely a human characteristic that enables man to survive, just as protective blotches and animal appetites similarly aid their possessors, and if it showed that man himself is merely an ephemeral incident in the everlasting impact of atoms and eddying approach and crash of molar masses, then would man, and morality with him, be shown to be

insignificant indeed from the cosmic point of view. From that point of view morality and man can be shown to be significant only if spiritual as well as physical facts can be brought to knowledge, indeed, only if the universe can be shown to be essentially spiritual, and so friendly to and appreciative of human morality. And metaphysics alone can give knowledge of facts like these. By all means let metaphysicians put forth all their endeavours to discover the cosmic nature and rôle of morality.

But, in the interest of the present undertaking, I would urge certain considerations upon the attention of metaphysical moralists: (1) No attempt is here made to prejudge the results of metaphysical speculation. It is nowhere stated that morality is "merely" what it, as a natural phenomenon, is here discovered to be. Statements are made as to what morality as such a phenomenon is, but that is without prejudice to whatever other characteristics it may turn out to have from the broader cosmic point of view. (2) Since metaphysicians wish to know what morality is as a cosmic phenomenon, they certainly are not indifferent to knowledge of its nature and rôle as a natural phenomenon; nature is part of the cosmos. (3) Is it not natural and proper to study morality in its setting as one of the comparatively familiar and accessible facts of human experience, before embarking upon the precarious enterprise of discovering its cosmic bearings? Or is the larger enterprise more likely to be successful if the smaller is neglected? (4) Finally, even though it should turn out that man is utterly insignificant from the cosmic point of view, is not mankind unavoidably and properly interesting from the human point of view, and is not the significance of morality for mankind an intrinsically interesting problem?

These remarks are addressed to metaphysical moralists of broad outlook. Metaphysical moralists work their own destruction, when they assume that facts lying outside

their consciousness and the consciousness of their contemporaries may supply a useful foundation for scientific conclusions, but can only sully the purity of cosmic conclusions.

In carrying out the undertaking to write a scientific account of morality, it has been necessary to gather facts from many sciences. Of course, no little familiarity with a science is requisite if its facts and conclusions are to be used without doing violence to truth. Without knowledge of substantially the whole range of a science, that subconscious background that guides the scientist in his own department is lacking, and borrowed materials gathered here and there are sure to be in part scientifically unsound. For errors due to carelessness I ask no indulgence, though some errors will, no doubt, be found that greater care would have corrected; but for errors that are unavoidable, because due to the magnitude of the undertaking, I ask the reader's patient considerateness. If the general plan of treatment here adopted commends itself to the competent, I shall be content to have incidental errors corrected in due time, and shall be indeed grateful for assistance in detecting them.

Especially doubtful am I of the statements set down in Chapter XIII on justice. To learn all the principles of the common law or of the civil law is no small task. But to know, without serious error, the leading principles of both systems, even to the limited extent required for writing the chapter mentioned, is an all but impossible achievement. The teaching of law and writing of legal text-books are eminently practical undertakings, and both professors of law and jurists confine their attention almost entirely to the system that prevails in their own jurisdictions, and besides teach and write for the practising lawyer, barely dropping crumbs of information now and again to the theoretical inquirer. This practice puts upon an ethical writer, inexpert in legal lore, a task too heavy

for his unaided powers. Had my confidence in the wisdom of basing the account of moral justice on the universal principles of legal justice, as gathered from a comparative study of the different legal systems, been less strong, I should many times have given up the whole undertaking in despair. As it is I publish the chapter with the hope that its crudities and other blemishes will be looked on with charity, and that aid will be given in eliminating them on some future occasion.

The incompleteness of some discussions and the errors to be found in the following pages will, I hope, be less out of place in a modest text-book. Surely it is less important to hand truth over to college and university students in neatly bound and labelled packages, than to lead them to witness and take part in the making of science. They can supplement incomplete discussions, *e.g.* in Chapters VII–XVI, and errors they can aid in correcting. Much work must be done before science can accumulate secure knowledge of the origin of conscience in the race, and of the true nature of temperance, of benevolence, of justice, of welfare, etc., and there are few fields to which the attention of students could be more profitably directed.

It should be said that the dogmatic form of treatment, which is the traditional garb of the text-book, has been adhered to as much as possible. But when the conclusions reached were hitherto unknown to Ethics, and therefore without support from ethical authorities, conscience at times rebelled against a tone too fully assured.

Owing to my distance from the intellectual centres and from library facilities, less assistance than I could have wished has been enjoyed. It would be impossible to enumerate the authorities, in ethical and other fields, in whose debt I stand, though footnotes and quotations are always eloquent witnesses. I cannot forbear mention, however, of Aristotle, Kant, Darwin, Clifford, and Sidgwick. To Professor Palmer, of Harvard, my gratitude is

due, alike for his lucid instruction and his inspiration to me when a graduate student, and for his friendly interest and illuminating suggestions in more recent years. Among my colleagues of the University of Texas I should mention John C. Townes, Professor of Law, David F. Houston, Professor of Political Science, and F. W. Simonds, Professor of Geology, as having aided in keeping me straight. Judge Townes's task was a difficult one, and his efforts are worthy of all praise. Nor may I forget the students of the University of Texas who listened to my lectures on Ethics, and gave, consciously and unconsciously, many helpful criticisms. The lecture notes of Miss Mary Heard, Tutor in English, Miss A. P. F. Hubbard, Fellow in Spanish, and Mr. Thomas Fletcher, Student Assistant in Psychology, were kindly put at my disposal, and have aided me not a little.

AUSTIN, November 5, 1900.

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INTRODUCTION

CHAPTER I

Definition, Scope, and Methods

§ 1. Definition

The Problem. — Ethics is one of the group of sciences, commonly called normative, whose first business is definition. Men find comparatively little difficulty in agreeing on the names to be given to most of the things they think and talk about; but, for many reasons, it is both difficult to characterize the phenomena investigated by the normative sciences appropriately, and dangerous, or at least very ill-advised, to characterize them inappropriately.

Even in the descriptive sciences great care is needed in order to describe and explain the objects with which they deal, especially when the lower subclasses are concerned, but the identification and classification of the objects are not ordinarily attended with the most serious difficulties. Biologists no doubt have difficulty in discovering precisely what life is, and in properly characterizing many genera and species, but they are in little danger of mistaking living beings for inorganic matter, or *vice versa*, or of mistaking the order or other important subdivision to which any animal or plant belongs. Psychologists similarly have much to learn about intellectual, emotional, and volitional states, but they seldom confuse them, and have not in modern times

mistaken material bodies for them. And so it is in Astronomy, Physics, Chemistry, and the other so-called descriptive sciences.

But in the domain of the normative sciences the difficulty is in identifying and conceiving the phenomena concerned, in agreeing as to what they are. In Æsthetics men are far from agreeing as to what things are beautiful and what things are ugly, and so it is with the subclasses of beautiful and ugly things. Indeed, the proverb handed down from Roman days declares that there is no disputing about tastes, it being held, apparently, that there is no common ground of agreement on which to found discussion. And in Logic, which deals with truth and error, there is at least as much difficulty in classifying opinions and statements, and in determining the test they must meet in order to be classed as true. As is instanced by conflicting theological and political creeds, and other opinions of deep concern, the notion of what true as distinguished from false statements are is so vague and unparticular that discussions may go on for years, or even for centuries, without bringing men into agreement.

And in Ethics the same state of facts obtains. It is of common knowledge that men differ endlessly about concrete actions. It frequently happens that actions highly commended by some men are severely condemned by others. And even when men agree in regarding particular actions as right or wrong, they commonly differ in assessing their worth or iniquity, as the case may be. And theory differs nearly as much as practice. Some men hold to theological views on morality, believing that to be right that God, or, it may be, the Church, commands, while others are intuitionists, or perfectionists, or hedonists, or eudemonists, and for each of these views there are several interpretations. The difficulty evidently is that men do not possess, or at least have not discovered, any common ground of agreement as to what right and

wrong, morality and immorality, respectively are, and certainly that their ideas of the two are not sufficiently particular and concrete to allow them to decide in which of the two classes many actions belong.

The main causes of this confusion within the normative sciences are not difficult to discover, and once discovered they will be less difficult to remedy. In the first place, the phenomena dealt with by each of them belong in two main classes, — beautiful and ugly objects, true and false statements, moral and immoral actions, — two classes all but indiscernibly similar in their salient features, but differing so widely in their value for men that the first contains all that is of delight, of service, and of good report, while the second contains the opposites of these. It is as if men were all born as twins, one of each pair a criminal, the other a benefactor of his kind. It is difficult to find the hidden characteristics responsible for so extreme a difference, but every advance of a normative science puts stripes, as it were, on a criminal twin, or insignia of respect on a benefactor, so they may be distinguished and treated appropriately. In the descriptive sciences there is of course no such division of subject-matter into two practically opposed classes.

The second cause of confusion in the normative sciences is largely a consequence of the first. Owing to the preeminently practical basis of the distinction, phenomena in each of the two main subdivisions make distinctive and opposite appeals to the whole man in his concrete individuality, not merely to the man's reason or intellect. A wholly unpractical and unfeeling mind, if such a thing existed, would be competent to decide whether two and two make four or some other number, and whether a whale is a fish or a mammal. But the whole man, with all his peculiarities upon his head, decides whether it is right or wrong to free the slave, to disestablish the Church, or to intervene in behalf of the oppressed Cubans. To

change his ethical, æsthetic, or even his logical opinions in concrete matters, a man must change his nature ; to change his opinions in Physics, Chemistry, or any other descriptive science, it is merely necessary to change his mind. And of course the intellect may be regarded as uniform from man to man as compared with the feelings and the will, though the latter are much more fundamental for character. And besides, the question is not as to the relative amount of mental as compared with other differences among men, but as to mental characteristics compared with all characteristics, intellectual, emotional, and volitional. Mental differences, almost exclusively, determine different opinions in the descriptive sciences. Practically all individual qualities have a part in determining differences of opinion in the normative sciences. It is but natural then that, in these latter, disagreements should be at once more numerous and more obstinate ; and equally natural that definitions, which all but form themselves in the descriptive sciences, should have to be deliberately and very carefully framed in the less fortunate normative sciences. Other less important causes contributing to the effect under consideration will appear as the discussion proceeds.

And further there is every reason for taking pains to understand beauty, truth, and morality. Every name is either warning or advice. But a normative name, if the expression be allowed, is an all but imperative command. When the word " Wolf! " is uttered, a wide range of conduct is suggested, differing for the hunter, the shepherd, the lonely traveller, etc. And similarly all names are packed tight with suggestions for action. But descriptive names only give advice, which each may follow as seems best to him; while normative names issue a call to which all are in duty bound to respond appropriately. " Wolf ! " means " Look out for yourself "; " Stop thief ! " means " Join in the hue and cry, and assist

in the capture." The same fact is evidenced by the different ways in which men respond to descriptions and to estimates, which are normative judgments. When they are described inaccurately, they correct the mistake. When they are estimated unjustly, they resent the estimate. Every one knows that the benefit or injury a description can do him is of quite a different order from the benefit or injury done him by an estimate. Descriptions, it may be said, deal with accidents; estimates deal with essentials. Or, from the point of view of the suggestions a characterization gives others, a description suggests details of conduct towards the object in question; but a normative estimate either starts a man in the right direction, so he may properly adjust the details of his conduct to the object as he advances, or it starts him wandering in the wrong direction, subject to the danger of never finding his proper position with respect to the object. For fundamentally the world is divided into the things that are profitable, and good to deal with, and the things that are unprofitable, and to be dealt with under due precaution, or, it may be, not at all. And the normative sciences seek to save men from confusing either with the other by discovering and pointing out unmistakable characteristics of each.

Little more need be said to explain the definition here proposed for Ethics. Of the phenonema subdivided into two opposed halves, a very important class consists of what are variously designated good and bad, right and wrong, moral and immoral, etc. For the reasons discussed above, it is far from easy to know in many cases whether a man or an action is moral or immoral, and besides very important that no mistake should be made; for calling a man moral is but another way of saying that he is of the kind all agree to help, while calling him immoral similarly means that he is to be thwarted. The first task of Ethics accordingly is to define what is meant

by morality and immorality, and what by their main subdivisions. But of course no one would be satisfied with definitions; they merely constitute the first step, made necessary by the great confusion. We want in addition to know as much as possible about the phenomena to be investigated. As in all other sciences, the phenomena under investigation, here morality and immorality, must be adequately described, and, as far as possible, explained. Description and explanation are unusually difficult in so intricate a subject, and they cannot be carried far within the limits of the present book; but they are not only a legitimate, but an essential part of any complete Ethics, and as such cannot be excluded from the definition that follows.

Definition. — Ethics is the science that first defines, and afterwards describes and explains, morality and immorality, and their subdivisions.

§ 2. Ethics as a Normative Science

Ethics has been called a normative as distinguished from a descriptive science. And while the introductory discussion has given some idea of what the two types of science are, as well as of the distinction between them, misconception as to the nature of normative sciences is so easy and has done so much to obscure the true rôle and purpose of Ethics that some additional words of explanation are necessary. As has already been shown, a normative science is nothing more nor less than a science whose first business consists in defining a pair of important terms difficult to distinguish from each other. After this is accomplished it describes and explains its phenomena just as any descriptive science does. Ethics, for instance, on the basis of appropriate investigations, tells what moral as distinguished from immoral conduct really is. And while this seems plain enough, being merely the framing of definitions, the nature of the things defined by the normative sciences easily leads to confusion. For in dis-

covering what is really meant by moral conduct, Ethics discovers a fact of a peculiar kind: not so much a type of conduct actually performed, — for probably no human conduct is *fully* moral, — but rather a norm, a standard, an ideal type of conduct, actually so conceived by men. And it is very easy for the ethical writers who discover this norm or standard, to think that they establish it, and to feel called upon to urge others to live up to it. But, of course, both the supposed achievement and the supposed duty are fictions, and, moreover, fictions that have in no small degree retarded the advance of Ethics. In fact ethical writers do not in any proper sense judge conduct or issue pronouncements as to what is right or wrong. Their more modest task is to discover and record men's genuine judgments as to what is right and wrong, or in other words to discover what men really mean by right and wrong. From the fact that Ethics investigates moral judgments to draw the conclusion that it passes moral judgments is as illogical as to infer that the courts do wrong from the fact that they pass sentence upon wrong-doers. In fact the private judgment as to right and wrong of ethical investigators is no more competent — in some respects is less competent, as will appear presently — than the private judgment of others. Indeed, the most difficult task of Ethics is to eliminate the personal equation, in this field peculiarly dangerous, by discovering some method that will lead to objective truth. Failing this, prejudice, personal, local, class, and racial, will be set up in place of fact. In an ethical treatise all statements of what is right, as distinguished from statements of what men hold to be right, are open to distrust.

And as to the second confusion: profoundly serviceable as moral suasion by proper persons and on proper occasions undoubtedly is, it needs no argument to show that Ethics has no call to persuade men to morality. An effective preacher must devoutly believe that certain

courses of conduct are right and others wrong. An unbiassed investigator must be ready to examine impartially any course of conduct in order to discover whether it in fact belongs to the type that men agree in considering right or to the type that they consider wrong. The two temperaments are fundamentally different; a good investigator is a poor preacher, and *vice versa*.

§ 3. Ethics as a Teleological Science

Ethics is often called a teleological science, and it may be well to examine briefly into the propriety of the designation. To call a science teleological is the same as to call it normative, only with further specification of the terms in which the normative, typical, or standard phenomena are to be described. As a normative science, Ethics is merely called upon to describe, in any terms that may turn out to be appropriate, the standard actions that deserve to be called moral. When Ethics is designated a teleological science, it is further assumed that it is bound to describe moral actions in terms of the result or end (Greek τέλος) that they realize. Thus if it should turn out that actions are moral in proportion as they result in what may roughly be called good, Ethics would be properly designated a teleological science. But if it should turn out, as Kant holds, — and many other moralists essentially agree with him, — that nothing is good or moral except a good will, and that a will is good, "not because of what it performs or effects, but simply in itself and by itself," then Ethics would be inappropriately described as a teleological science. In a word, the designation "teleological" assumes at the outset that one of the several solutions of the central problem of Ethics is correct, and all others incorrect, and while that may be true — indeed, that is the conclusion to which the present investigation leads — none the less such an assumption is unwarranted in a preliminary characterization.

§ 4. The Necessity for understanding the Scope and Methods of Ethics

It has already been pointed out that ethical investigations need to be grounded in an adequate understanding of the scope of the phenomena to be considered, and guided by a method well devised for preventing the strong practical interests aroused by moral questions from prejudicing the fairness of the conclusions reached. In fact there are two dangers especially threatening to ethical investigation, familiarity with a narrow range of moral phenomena, and cherished personal principles and practices.

The first danger threatens all social sciences, not Ethics alone. Economics, for instance, deals with subjects whose terminology is in the main well known to all, and limited portions of whose facts are familiar experiences to all men. The result is, that economic problems inspire no awe, in fact do not even seem strange, and that men find it difficult to believe that it takes expert knowledge and a large accumulation of information to solve them. An ignorant or half-informed man trusts his judgment as against well-established principles of science to an extent that would be impossible in mathematical or classical subjects, and that though economic problems are in no sense less intricate or difficult. And, similarly, economists themselves are only to a lesser extent likely to assume that their science is exclusively deductive, and accordingly to attempt to found their conclusions on a narrow and abstract survey of the facts, rather than on a full acquaintance with them in all their concrete spread.

Much the same can be repeated of Ethics. Moral phenomena meet us at every turn, and those we encounter have so much reality for us, and seem so well known, even to triteness, that we easily persuade ourselves that with careful scrutiny of our experience we can penetrate

to the heart of the moral mystery. As well expect to build up Biology upon observations limited to a stock farm and a poultry yard. Moral phenomena are infinitely numerous, various, and intricate, and unless their scope be appreciated, and the whole body of phenomena be present, at least in the background of the mind, when conclusions are being formed, there is little hope for an adequate Ethics.

The second danger needs no further insistence. It may be that persons provoke a stronger emotional response, but no other subject-matter appeals to the feelings, and to the whole nature, as morality and immorality do. An investigator who deals with the subject without set plan, proceeding as his nature may direct, is sure to overemphasize some facts, and to neglect or even omit others; his perspective will be faulty and his conclusions unfair. A method is for a scientist what his plan of campaign is for a general; it allows deliberate and far-seeing moments to guide by full experience the intense and passionate moments that come when battle is joined.

§ 5. The Scope of Ethics

Adopting, as usage permits, one term for both moral and immoral men and actions, it may be said that Ethics undertakes to investigate moral phenomena throughout their entire range. This is a vast subject-matter; but by proceeding in an orderly manner it will not be difficult to build up a sufficient conception of it for introductory purposes. Beginning with the morality in the midst of which he lives, and with which he is more or less familiar, the investigator can trace out the phenomena along various lines. His set or social class has a partly distinct morality, but there are other classes in the community, and he must know their moral principles and practices. If the investigator happens to be a lawyer, and so familiar with legal ethics, he must remember that there are other occupations,

professions, and callings, each with a moral outlook of its own. The many religious bodies differ in creed and in moral perspective if not in doctrine, and these differences are proper and necessary objects of investigation. And each locality and section has its moral provincialisms, while broader features difference the moral systems of the nations from one another. But probably the investigator will find it hardest to understand the morality of other races, for racial differences are the most deep-going. There are many moral questions on which the Englishman and the Frenchman will long disagree, while both will probably misinterpret the Japanese and the Chinaman, and all but wholly fail to understand the Malay, the Negro, and the Hottentot. Notwithstanding, this entire body of moral phenomena must be sufficiently investigated by the ethical student to save his theories from doing violence to any fact existing there. And finally, the morality of the present is but a small fraction of human morality. At least from the dawn of human life morality has been making, and Ethics is very earnestly interested in primeval, savage, and barbarous morality — almost as much interested in them as in civilized morality of to-day. Of course only very few of the facts suggested are within the present compass of human knowledge. But that makes it all the more the duty of Ethics to become acquainted with as many of them as possible, whether by means of the assistance of other sciences, or by means of its own independent investigations.

Again, the task of Ethics is very complicated ; its scope is extended by the intricacy of the phenomena, by the multiplicity of details present in each phenomenon concerned. First, as the next chapter will show, only voluntarily actions are moral and immoral, and they of course are partly psychic and partly physical, states of mind followed by bodily movements. And further, a great deal must be known of the psychic states of all the men who, as

we say, "consider," "judge," "believe," or "hold" actions to be right and wrong; in more usual terms, a great deal must be known about conscience. Ethical investigation cannot proceed very far without knowing what conscience is, for the nature of conscience throws much light on the nature of the actions conscience seeks for approval and disapproval. And, besides knowing what conscience is, it is necessary to know how it came into existence in the child and the race, and especially, so far as possible, what it stands for and aims at. These last problems, though recent and considered with little favour by some writers on the subject, are of very serious importance. If the problem were to find what Englishmen stand for and are chiefly interested in, the most natural recourse would be to their history, to discover what they had stood for and been interested in; no one would think of limiting the inquiry to Englishmen of the present day, their surroundings, training, and disposition. And yet the opinion is strangely prevalent that the nature and aim of men as moral beings can best be discovered by confining investigation to present-day and civilized moral natures or consciences to the exclusion of any consideration of consciences of other times and races. Estimates passed upon consciences are indeed of slight value, for Ethics is not attempting to make moral estimates, but to discover their true intent. But all scientific information about conscience and its groping attempts to find what it seeks is of the utmost value. The problem thus includes the investigation of a group of widely branching physical phenomena, the outer side of voluntary actions, and of two groups of psychic phenomena, the inner side of actions and conscience. It is interesting to note that some writers, including most intuitionists, have all but entirely neglected the physical problem, while others, chiefly evolutionists, with Mr. Spencer at their head, give but the scantest treatment to the psychic problem.

The undertaking thus proposed for Ethics is large and intricate, so much so that there may be some hesitation in regarding it as within the compass of human powers. In history, it may be said, there are large gaps, and even where its information is fullest little is known of the life of the people at large, scarcely one concrete act. Travellers have seen something of uncivilized peoples, but they have not lived with them long in most cases, and are generally inexpert, with the result that their information is superficial and untrustworthy. And as to prehistoric times, the sea of ignorance is barely dotted with islets of surmise. Can it be expected, on so insecure and limited a foundation, to erect a structure of knowledge that has any chance of standing? In reply it may be said that our having a small number of facts would scarcely justify our neglecting some of them, that many more difficult problems are being slowly but steadily solved, and that many other sciences are from this point of view in much the same position. Geology can observe only an insignificant fraction of the earth's strata; by aid of the spectroscope, astronomy is adding item by item to its knowledge of the chemical elements in the planets and stars; and it is out of the scantiest material that philologists have built up their knowledge of Sanskrit and of several other languages. In fact, it is because there are great gaps in our knowledge of facts that sciences arise to bridge them; were there a region where all the facts were known, all science could be there dispensed with. And if, as is no doubt true, there are more gaps in our knowledge of moral phenomena than elsewhere, that, as has been suggested, is the more reason for discovering and using as many facts as possible, and for being especially cautious and methodical, or unprejudiced, in inferring from known to unknown facts.

§ 6. The Methods of Ethics

So far as is possible Ethics draws on other sciences for facts, just as they draw on one another. Jurisprudence probably furnishes more valuable facts than any other science, for it describes the actions that judges, who are generally eminent in training, ability, and knowledge, employ the power of the state to punish, repress, and discourage, and also the rights that they with like effectiveness protect. History, political, social, and religious, furnishes many facts, and many are furnished, to mention only the more helpful allies, by Sociology, Anthropology, Biology, and especially by Psychology, descriptive, morbid, genetic, and comparative.

But it often happens that other sciences fail to investigate the facts that are most significant for Ethics, and then it is compelled to take up the investigation, making use, of course, of the approved method in each case. For instance, with all the activity of modern psychologists, the numerous books they have written either ignore conscience or give it but scant description, and even voluntary action they fail to treat, from some points of view most interesting to ethical students. Ethics must fill in these and other gaps, and in doing so must use the methods, introspection, experiment, etc., employed by Psychology. And what is true of Psychology is also true of Jurisprudence, Sociology, and History; and if it is, at present, less true of the other sciences mentioned above, that is because Ethics is as yet scarcely aware of the magnitude of the task undertaken. In short, in dealing with facts of each kind, Ethics must use the methods of investigation found effective by the sciences ordinarily dealing with them, and this means that many methods must be used, for the facts are very various.

But Ethics is interested in conclusions as much as, if not more than, in facts. Indeed, it is interested in facts

with a view to the conclusions to which their investigation leads. And while the indicated employment of the methods of the other sciences will result in the discovery of important facts, it will scarcely of itself lead to the conclusions sought. The problem is how to throw light from the facts suggested on to the nature of morality and immorality and of the differences between them.

This problem and its solution will be made clearer by considering how the interpretation of meaning, how definition, is accomplished in a number of more familiar instances. If a living author, Bret Harte say, coins a word or uses a well-known word in a strange sense, his meaning may be discovered either by asking him, in which case he either may or may not be willing or able to explain, or it may be discovered by a careful consideration of the word's context in as many instances as possible. But in case of a word of doubtful meaning used by an author no longer living, *e.g.* Chaucer or Shakspere, the first alternative is eliminated, and the second alone remains. Dependence is placed on studying the word in many contexts, supplemented, so far as possible, by acquaintance with contemporary usage similarly ascertained. This second case is evidently more of a kind with the situation in Ethics; for though it is possible to ask this man or that what he means by morality and immorality, his answer would have no scientific value, and the correct answer must be discovered by seeking the meaning of the words in contexts as various as possible, and then generalizing to their meaning in unexamined contexts. Again, the problem before Ethics is not unlike that presented to the decipherers of the Egyptian hieroglyphics. Taking in quite concretely the situation (context) in which an action considered moral (an unknown hieroglyph) is found, a guess at its essence and meaning is ventured. On this basis other instances are examined in their settings and the guess is then corrected and expanded to

fit them. Finally, when an interpretation of meaning is wrought out that fresh instances in large numbers only continue to confirm, it is accepted as correct as long as confirmations are uninterrupted. What may be called a method of inductive approximations, is thus one of the most important for Ethics, as it is for other inquiries whose chief business is interpretation of meanings.

A couple of problems even more similar to those of Ethics will serve to make the method clearer. Either because of death, of refusal, or of personal defect, it is often impossible to ascertain the political principles of public men, of congressmen, for instance, from their own statements. But in any case, where these principles are of interest, this far from bars the inquiry. The votes of the congressman can be looked up, and his conduct on committees and the character and trend of his interests and utterances in and out of Congress can be investigated, with the result that, after a sufficient amount of careful study, inferences as to his probable course on occasions not yet investigated will be justified with increasing frequency by the facts. What he stands for and aims at will thus be more or less accurately and adequately discovered. Now what is true of a single public man is equally true of a political party. Within the limits allowed by changes of leadership and of circumstances, and by the imperfect organization of parties as compared with men, the principles of a party can be discovered by skilful inductions based upon the investigation of the votes and in general the political conduct of the members of the party. And what is true of the political principles and interests of a group of men composing a party is true of the moral principles and interests of all men, at least of the more fundamental moral principles. In so far as there is a meaning common to all men in the terms "moral" and "immoral" and their translations, one means of finding this is the method of inductive approximations.

But still another method is open to Ethics, what is known broadly as the deductive method, which consists in using recognized and established principles for elucidating the facts under investigation. Knowing for instance that all men are mortal, and knowing that Socrates is a man, it is known that Socrates is mortal. Knowing that pure oxygen is essential for preserving life in animal tissues, and knowing further that oxygen does not exist pure, it is known that animals have some organ for separating oxygen out of the mixtures in which it exists. And similarly, knowing that some actions are preservative of life and promotive of strength and skill in satisfying desires, while others destroy life and diminish strength and skill, it is not difficult among other things to infer that any body of men that continues alive and prosperous considers moral or encourages many of the first, and considers immoral or discourages many of the second class of actions. In short, men are not only moral beings but living beings in an environment to some extent investigated and known, and from the known "laws of life and conditions of existence," to use Mr. Herbert Spencer's phrase, a very respectable body of deductions can be reached regarding the kind of actions men, so long as they live and in so far as they prosper, must consider moral and immoral.

CHAPTER II

Moral and Non-moral Phenomena

The Test. — This chapter undertakes to distinguish moral from non-moral phenomena. Either of two means can be adopted to accomplish this purpose. The views of those who have investigated the subject may be gathered and compared in order to discover the true distinction. Or, and this is a better way, the phenomena which men quite spontaneously treat as moral may be examined and compared with those not so treated. All phenomena which arouse moral emotions, or on which moral judgment is passed, or which are either rewarded or punished with a sense that that is their desert, are moral phenomena. In a word, anything for which a man is held responsible, by himself or by others, is thereby regarded as a moral phenomenon. Immorality for obvious reasons furnishes better examples, and most of those considered will be taken from that field ; and commissions for similar reasons are more convenient for citation than omissions. But it is only for the strictly limited purposes of this chapter that the neglect to mention moral actions and omissions is permissible. In a descriptive catalogue of moral and immoral actions they would occupy a large place.

§ 1. The Bulk of Non-moral Phenomena

The first step in distinguishing the moral from the non-moral can be easily taken. In spite of the mighty benefits and injuries it inflicts, the universe of lifeless things can do neither right nor wrong. Excessive heat and cold,

storms, the action of the ocean, of earthquakes, etc., are causes of an appalling aggregate of misery, while sunshine, rain, fertile soil, the changes of the seasons, and other inorganic conditions are quite indispensable benefactors. But the former are not held responsible and the latter neither arouse gratitude nor receive reward. Inorganic matter is non-moral.

Nor is there any more hesitation in excluding the vegetable kingdom from among moral phenomena. The plants that furnish food are not morally good, and those that poison are not morally evil.

It might be thought that with consciousness, capacity for right and wrong appears. But this supposition is negative by the fact that all or nearly all the lower animals are conscious, and yet are not looked upon as morally responsible. The first difficulty appears when the higher, chiefly the domestic, animals are considered. The men who know them best and are most fond of them not infrequently maintain that domestic animals, or some of them, are capable of moral and immoral actions. While admitting that cats in general are non-moral, the late Professor Clifford humorously insisted that his pet was an exception. The question need not be discussed here. On the considerations which properly decide whether all men are fit objects of moral judgment, is based the answer in this case also.

§ 2. Men as Moral Phenomena

That man, endowed with knowledge and will, is held morally responsible is not denied. It is certain, however, that some human beings, at least in some actions and in certain consequences of their actions, cannot justly be subjected to moral judgments. Nothing that infants do is so judged ; and as children grow older they are held responsible only in proportion to the development of their will and experience. Idiots and imbeciles, whatever their

years, are classed with infants in this respect; while those in whom insanity appears in less complete form are only in some of their actions included among the responsible members of the community. Roughly speaking, such irresponsible members fall into two classes, those deficient in intellect, and those weak in will.

No difficulty will be felt with regard to the unfortunates who are mentally deficient. In so far as dementia prevents an individual from foreseeing and realizing the consequences of his actions, or leads him to mistaken expectations, it is plain that he would be held responsible by no one. The mentally unsound may set fire to inhabited buildings, or kill with firearms, or do any injury, however appalling, and they will not be punished in so far as they did not know what they were about. There is no little difficulty in assessing the responsibility in proportion to the degree of foresight that exists in any case, but that applies to the sane as well as to the partially insane, and will be taken up later. The present point is, that when foresight is for all practical purposes entirely absent, responsibility does not exist.

At first sight it may not appear so plain that responsibility is diminished by weakness of will. It may seem that responsible judgment demands of a man that his will be strong enough to insure the performance of his duty. But without denying the last statement, it is still true that sober-minded judgment assesses responsibility in nice proportion to the relative strength of will and of its opponents in each case, denying responsibility where will has no strength at all. The strength of will is of course relative, and the examples to be discussed will be grouped under two heads, instances where normally strong will is opposed by other forces abnormally strong, and instances where the opposing forces are normal, but the will is abnormally weak or wholly absent.

Physical force that overpowers the will entirely does

away with responsibility. A man exercising due care, who is thrown from his horse, is not held responsible, though in his fall he injure a passer-by. In this and similar cases no one expects the will to be strong enough to control superior power. And even where the external agency does not overpower the will, allowance is made for its presence. Coercion, for instance, whether exercised indirectly on the will through the emotions or intellect, or exercised directly on the will itself, is held to diminish responsibility. Actions, even though wrong, are less seriously condemned if motived by great fear, strong love, or any other powerful emotion. And when an individual does harm in unavoidable ignorance, he is not blamed, the person deceiving him being alone responsible if the ignorance is due to misinformation. But coercion may also be exercised directly upon the will. Men differ in impressiveness, both by nature and by reason of the social office they fill, and an impressive person may impose upon the weaker resolution of one who naturally defers to him. In this case the responsibility of the latter is held to be only partial. A child is not wholly responsible for wrong-doing to which he is impelled by his parents. A servant is not wholly responsible for the results of what he does under direction of his master. And, at the extreme, a fully hypnotized subject has no responsibility for actions his hypnotizer commands. In all these cases it will be observed that the will is held responsible only for such resistance to opposing forces as its strength permits.

And what is true when external forces oppose the will is equally true when it is opposed by internal forces. Many shrink from the latter admission, both from fear of unduly complicating the problem for simple natures, and from fear of encouraging in place of discouraging the internal opponents of will in weak natures. But, as a few instances will show, what is often denied as a general

proposition, is admitted in the particular cases contemplated by the general proposition. Many cases like the following can be found in Professor Ribot's *Diseases of the Will* from which it is summarized. An unfortunate young Frenchman found himself afflicted with a well-nigh irresistible impulse to kill his mother. In dread lest the impulse should at some time overmaster him, he enlisted in the army and served three years with distinction and fidelity in Algeria. At the end of his term the homicidal impulse was still upon him, though by that time his sister-in-law was substituted for his mother as the threatened victim. Determined that he would not give the impulse its opportunity, the young man reënlisted for another term. During his second term he heard of his sister-in-law's death, and, thinking the danger over, he hastened to his native village, absence from which had all along been a great trial to him. But it was only to hear on his arrival that she was still alive, and to feel again the dreaded impulse. He thereupon sought admission to an asylum, asking that, for security's sake, he be permanently confined, and insisting that at no time should any attention be paid to appearances or protestations of cure. Had this young man been so unfortunate as to meet his sister-in-law with the impulse strong upon him, and had the latter forced itself into action in spite of his utmost and unremitting efforts to restrain it, it is safe to say that no one, convinced that the case was undoubtedly that described, would hold him morally responsible for the killing. And it must not be supposed that cases like this are exceptionally rare. Many like them are found, and less extreme cases make up the bulk of the records of impulsive insanity. Sometimes the impulse will be periodic rather than constant. Sometimes it is an impulse to a trivial act. Sometimes the danger consists in the suddenness with which the impulse appears, and its issuance in action before the will is at all aroused.

While sometimes, though aroused, the will has not time to attain full-grown vigour, or to acquire sufficient foresight and realization of consequences to cope with the well-developed impulse and restrain it. In cases of the types suggested it is matter of common knowledge that the unfortunate individuals are not held to full responsibility. In the situations under consideration, a moral phenomenon, the will, and non-moral agencies, blind impulses, contribute to the consequences that ensue, and it would be a confusion as well as an injustice to hold the former responsible for the consequences due to the latter.

Again, native weakness of will, and of its allies, the feelings and the intellect, temper judgment much as external and internal coercion do. From cold natures less depth and delicacy of kindness is exacted, and in general full strength and finish of action is expected from any individual only in those directions in which his will is reënforced by his feelings. In like manner delinquency is partially condoned by stupidity; where the intellect is weak, the will can have but little foresight for its guidance, and a man is not responsible for what could not have been foreseen. Lastly, will itself may be weak, or even absent. All are familiar with people possessing little habit or ability of self-control, and with the large allowances made for their shortcomings. It is not necessary to turn to morbid literature to find them. But at the same time morbid cases are more carefully described and better authenticated, and besides, being extreme cases, are easier to understand, and are therefore useful in throwing light on the more normal cases. Strikingly in point are the hysterics, mere creatures of impulse, versatile, fantastic, and capricious; now astonishingly loquacious, now sombre and taciturn; to-day joyous, amiable, and gracious, to-morrow sensitive and irascible; at one time pursuing with their hatred persons they had formerly all but smothered with affection; passing, in fact, with

incredible rapidity from any mood to its opposite, "nothing more constant in them than their inconstancy." And "almost all the divers phases of their character, of their mental state, can be summed up in these words: They know not how, they cannot, they do not wish to will. Indeed, it is because their will is always wavering and giving way, it is because it is constantly in a state of instable equilibrium, it is because it turns to the gentlest wind like the weathercock on our roofs, it is for all these reasons that the hysterics show that mobility, that inconstancy, and that mutability in their desires, in their ideas, and in their affections."[1] But even more extreme is the plight of epileptics during their seizures. In them will is not merely impaired and weak, but wholly absent; each impulsion finds its way into action without let or hindrance. It is not necessary to dwell on these unfortunate and unpleasant cases. It is evident with regard to them, and is true in all cases, that responsibility is lessened in proportion as will is weak without fault.

In a word, the fight between the will, representing the individual, and the rebellious impulse must be a fair one. In proportion as the impulse has an undue advantage, whether by reason of unfortunate temperament or experience, or of mistaken belief, or of the presence of overweening influences, the individual's responsibility is assessed lower.

From these facts a double conclusion emerges. It is among voluntary actions, which men both will or consent to, and in which they know what they are about, that moral phenomena are to be sought. An action which is willed or consented to, with full foresight and realization of consequences, is in its entirety, through and through, amenable at the bar of morality. Now if every action

[1] What is said about hysterics is partly summarized and partly quoted from Axenfeld and Huchard, *Traite des nevroses*, 2d ed., 1883, pp. 958–971; vide Ribot *Les maladie de la volunte*, Ch. III.

either completely answered that description, or else wholly failed to do so, moral judgment could be easily passed. But the fact is, that most actions are not the results of clear, full, and free volition with enlightened knowledge. If any such there be, other actions shade off from them very gradually, till the point is reached where both self-control and foresight wholly disappear. And it is the medium ranges which occasion the difficulty, for though the performances there have some of the marks, they do not measure up to the full requirements for inclusion in their entirety among moral phenomena. And this failure on their part leads many into confusion, and impels some moralists to adopt a rigidity of description that does great violence to the facts.

§ 3. Neither Emotional States, Intellectual States, nor Fixed Habits are Moral Phenomena

The facts so far examined support the conclusion that only voluntary actions are moral phenomena, and that may turn out to be the correct view. There are apparent exceptions, however, and these must be examined before the conclusion can be accepted with full confidence. All are familiar with the convenient division of psychic states into the volitional, the intellectual, and the emotional. Now, it is commonly supposed that men are responsible not only for volitional, but also for emotional and intellectual states, and moreover it seems often to be assumed that men are responsible for their habits, even when these have become so fixed as to be beyond the control of the will. Vindictive feelings, suspicious thoughts, intemperate habits, will serve as examples of non-volitional states for which men are apparently held responsible. If the appearance is founded in fact, it cannot be maintained that only volitional states are moral phenomena.

The whole subject will become clearer if we bear in mind the mode of development of habits of action, of feel-

ing, and of thought. All characteristic behaviour springs from three sources, inborn temperament, environmental influences, and actions willed or consented to by the agent. Any habit is due in part to the nature with which the individual was born, in part to the influences by which he has been surrounded, and in part to the acquiesence or encouragement he has accorded the mode of behaviour in question.

Bearing these facts in mind, it is not difficult to discover one reason why men are held responsible for their habits: because, namely, even when the habitual act is at the time beyond the control of the will, the strength of the habit is at least in part due to past voluntary acquiescence or encouragement. One reason for holding a drunkard responsible for his excesses is, that he has allowed or even encouraged himself to become a drunkard; it is not the present irresistible impulsion, at least in so far as it *is* irresistible, for which he is held responsible, but the past lack of control, when control was still possible. And evidently the same is true of emotional and intellectual states. A man who has allowed himself to cherish revengeful feelings or suspicious thoughts is in so far responsible whenever either leads to the evil actions that naturally flow from it. That the interpretation given is correct may be seen from the variation in the responsibility assessed depending on the relative importance of the rôles of volition and of other forces. Where the dominant factor is not voluntary action, but either an unfortunate temperamental bent or strongly demoralizing external influences, such as are encountered in city slums, or unavoidable ignorance of the baneful consequences of cherishing the behaviour condemned, in so far a lesser degree of responsibility is assessed. It follows that where men are held responsible for fixed habits, for strong feelings, or for insistent thoughts, it is not for these states in themselves considered that responsibility is imputed, but for them as signs indicating the prior and causative existence of vol-

untary actions, which are the true moral phenomena. Of course it is often very difficult to determine how much prior volition and how much non-volitional forces have contributed to make a habit what it is. But that is a practical question that does not concern us here. The point to bear in mind is, that if the state complained of is beyond voluntary control, no responsibility is imputed unless volition is among its causes.

A second reason for the appearance of responsibility for non-volitional states is connected with the fact already alluded to, that volitional control is a matter of degree. While the rise into consciousness of impulses, feelings, and thoughts is independent of volition, their influence on action, once they have arisen, is in different degrees, difficult to estimate accurately, subject to voluntary control. At times an irascible man cannot suppress the beginnings of anger, but he generally can, though it is difficult to gauge to what extent, exercise control over the feeling and the actions to which it impels. And the same remarks apply to thoughts and habits. Accordingly what seems to be condemnation of feelings, thoughts, and habits, and is often so described, is in fact condemnation of the failure to exercise proper control over these states. And of course what makes possible the confusion is the fact that condemnation is often passed on states that are conspicuously emotional, intellectual, or habitual, and only inconspicuously volitional, with the result that the states are not called volitional, and that men seem to be held responsible for non-volitional states.[1]

[1] As a matter of practical expediency, in order to stimulate to assumption of control, agents, especially children, are sometimes punished for commissions and omissions beyond their control. Again, where men cause and profit by injury to others, they are sometimes held answerable for reparation, even though they could not have acted otherwise. In both cases responsibility is imputed, but in a sense different from that in which the word has so far been used in the present discussion. These cases will be discussed in taking up (4) and (5) of the table on pages 30–31.

The conclusion is, that men are responsible only for voluntary actions, and that when they appear to be held responsible for feelings, thoughts, and habits, the responsibility is in fact either for the acquiescence or encouragement that made these possible, or for failure duly to control them.

§ 4. Not All Voluntary Actions are Morally Judged

While leaving further discussion and fuller specification for a later chapter, the danger of misunderstanding will be averted by brief mention at this point of the fact that some voluntary actions are not morally judged. In actual practice many voluntary actions are turned over to the direction of individual interest, preference, or even caprice. For instance, not a little thought and decision are employed in dealing with matters of business, of the choice of professions or life-callings, and even of mere pleasure and entertainment. In these and similar matters voluntary action is not uncommon. And yet there is no wrong in a business blunder, or in ill-advisedly choosing a profession, or in missing a pleasure aimed at, any more than there is moral credit in success in these fields. Morally speaking, the actions thus roughly suggested are indifferent, or, better stated, they serve morality best when little supervised. On the one hand, a due measure of spontaneity keeps individual character wholesome and strong, on the other, the magnanimity of morality is lost as soon as it descends to haggling over trifles. Here the total result, the whole life and character, and not this or that particular action, is the moral phenomenon. There will then be no further insistence on the sufficiently obvious fact that some voluntary actions are not morally judged, and the more difficult task of determining what voluntary actions are and what are not morally judged will be postponed till a later discussion.[1]

[1] Vide Ch. VI.

§ 5. What Part of Voluntary Actions are Moral Phenomena?

Knowing that only voluntary actions are moral phenomena, it might be supposed that, after discovering what voluntary actions are moral phenomena, nothing more would remain to be done in order to solve the problem of this chapter. And such a supposition would be true, if voluntary actions were clearly defined and bounded entities, say like so many cobbles on the beach. But that unfortunately is not the case. Voluntary actions are extremely ill defined, and are very complicated besides. To use a physical simile, they are not unlike the springs that are to be found bubbling up into and feeding many lakes. Where the spring issues it is easy to distinguish its waters from those of the lake, and even at some little distance away this still remains possible. But it is impossible to say with accuracy where discrimination becomes impossible, though at no great remove from the point of issue it is impossible to say whether the water is spring water or lake water. And voluntary actions are similarly indefinite. If A intentionally and with accurate aim shoots B through the heart, the killing of B is A's act. If B is his family's only support, A may be said to deprive the family of its support. But if as a further consequence B's son has to leave college, it would hardly be said that A deprives B's son of a college education, nor would it be said that A injures the people of his state because B's son blunders as Governor through deficiency in economic training. The immediate consequences of an act are looked upon as part of the act, but its remoter effects are looked upon merely as consequences. And moreover, though the consequences of every act continue to work themselves out as long as time endures, they soon become so entangled with other events as to make it impossible to trace them back to their source.

Owing to the gradual disappearance of an act and its consequences into the general mass of surrounding and subsequent facts, it is impossible to conceive of any act with precision, and naturally very difficult to decide justly what a man is to be held responsible for when he performs a voluntary action. At the two extremes there is, to be sure, little difficulty. For remote and unforeseeable consequences the man is not held responsible. For the consequences that he deliberately foresaw and intended he is responsible. But it is not easy to say whether a man is or is not responsible for the consequences that lie between these two extremes. But let us analyze the consequences that flow from voluntary actions, and endeavour by that means to throw some light on the problem. It will be convenient to set forth the analysis in the following table, whose different items will be discussed in order. As responsibility for injuries has been worked out more carefully than merit and credit for benefits conferred, the former only will be considered, and the reader will find little difficulty in constructing the corresponding table of merit and credit if he desires to do so.

TABLE

Injurious consequences of voluntary actions.	Responsibility as measured by the treatment of the agent appropriate in each case.
(1) Motive, *i.e.* consequences for the sake of which the action was performed.	Punishment, reformation, social protection, and reparation.
(2) Intention, *i.e.* consequences foreseen and consented to.	
(3) Consequences unforeseen, but which the agent might have foreseen if he had exercised due care.	

TABLE (*Continued*)

Injurious consequences of voluntary actions.	Responsibility as measured by the treatment of the agent appropriate in each case.
(4) Consequences the agent was incapable of foreseeing, but which he could be brought to foresee under similar circumstances in the future, if properly educated in the meantime.	Reformation, social protection, and reparation.
(5) Other injurious consequences that are "immediately" and "directly" due to the action, but do not fall under previous heads.	Social protection and reparation.
(6) "Remote" consequences.	No responsibility.

Punishment, Reformation, Protection, and Reparation. — A little study of the table will probably make it clear, but in order that there may be no misunderstanding, a few words will be added to explain the three degrees of responsibility. When a man acts for the sake of doing injury, he is called upon to bear full responsibility for the injury done. He has done wrong from love of evil, and punishment is the fitting mode of expressing social condemnation of his malicious transgression. He has exhibited a dangerous trait of character, and it is proper that all legitimate means should be employed to reform him, and to protect society from him till he is reformed. He has profited at the expense of another, taking undue license and inflicting unwarranted injury, and reparation is called for at his hands to bring about a readjustment.[1]

Where a man intentionally inflicts an injury, the full measure of responsibility rests upon him, provided always

[1] It should be pointed out that reparation is seldom possible, and full reparation all but never possible. This is the blackest aspect of wrongdoing.

the injury is wrongfully inflicted. The hangman intentionally injures the condemned man, but does not wrongfully injure him; the burglar, who shoots the householder dead, does both intentional and wrongful injury, though his motive is plunder and not murder. It is plain then that in the case of consequences intended the distinction between wrongful and legitimate intent is pertinent, though at this point it will be impossible to do more than mention the distinction, which it is the central aim of the whole book to elucidate. Provided then that the intentional injury has been wrongfully inflicted, punishment fitly expresses social condemnation, reformation of a harmful character and protection of society are called for, and reparation for an unjust injury is demanded by justice.

Thirdly, it is fully admitted that reckless injury, provided again it is wrongful, entails full responsibility. To excuse from responsibility when carelessness takes the place of foresight, would be to encourage the cultivation of recklessness, and, besides, those who are not concerned to avoid the doing of wrongful injury, practically consent to its infliction, and thus put themselves in the class just disposed of. For instance, a man who recklessly discharges a revolver in a crowded thoroughfare is fully responsible for any injury done.

Reformation, Protection, and Reparation. — The thoughtless injuries due to children offer the plainest cases under the present heading. Before years of discretion have been reached, unwarranted injuries must, no doubt, often be inflicted, but the time of coming into discretion will be unnecessarily postponed if means are not devised for training youthful characters to greater prudence and care. And what is true most conspicuously of children is also true of adults. By holding men to a standard higher than they can quite reach, the measure of prudent foresight to which they attain is increased. When men

inflict unwarranted injury — for here, too, the injury must be unwarranted — they are held answerable in many ways. It is to the interest of all that each should improve in discretion as much as possible, and one essential to that end is the infliction of penalties on the indiscreet, in order to call their attention to their mistakes. The penalties may be severe or may be mild. That is relatively unimportant. The important thing is, that the penalties should be educationally effective. In the cases under consideration, the agent is so far responsible that compulsion, if necessary, may be used to train him to avoid similar blunders in the future, to protect society from him in the meantime, and, so far as possible, to enforce reparation from him for profiting at another's expense.

But the great difference between these cases and those falling under (1), (2), and (3) is, that here the responsibility of the agent is not of a kind that entails punishment, in the proper sense of the word. There is injury, and unwarranted injury, but there is no blame. In the cases discussed earlier, the agent either knowingly does wrong, or is not especially concerned to avoid doing wrong. In the cases at present contemplated it is beyond the capacity of the agent to avoid unwarranted injury. And here it is as important to insist that this incapacity does not in practice prevent strong measures with a view to reformation, protection, and reparation, as it is to insist that, however strong the measures adopted, incapacity bars the imputation of blame. If theory could be made to square with the best practice in this field, many enemies of society who are lawbreakers because of mistakes due to imperfect training could be treated at once more fairly and effectively, and more justly. As it is, penalties being assumed to go with guilt and blame, and many injurious blunderers being blameless and guiltless, they too often either escape effective treatment, or else are branded with an undeserved stigma.

Reparation and Protection: No Responsibility. — There is still a minimum of responsibility for some consequences that the agent did not foresee, could not have foreseen, and could not be trained to foresee in similar cases in the future. Of course there is no blame, and, by express statement, reformation is impossible. Yet there are cases where serious and unwarranted injury has been done, and where reparation and such inconvenience and restraint as are needed for the protection of society are called for. Take the case where A's cattle break out of their enclosure, in spite of A's having used all the care he reasonably could have used, or could learn to use, and destroy B's valuable crop in an adjoining field. A is not guilty and could learn no better. He has a right to own and pasture cattle, and he has taken all reasonable care to avoid injuring any neighbour. But B has suffered injury, which is directly due to A, an incident to an enterprise undertaken by the latter for his own pleasure or profit. The courts and public opinion have always held that under circumstances like these A owes B reparation. Or take the cases where society protects itself from blameless and unteachable lunatics. And there are many other cases in general similar to these, though differing rather widely in detail. But the purpose is not to discuss such cases, or to give a full account of the circumstances under which reparation and protection for society may rightly be insisted on, even though punishment would be unjust and reformation impossible.[1] The purpose is merely to make it plain that there sometimes is a minimum of responsibility, as described, for consequences that fall under the fourth head.

Two specifications, however, must be insisted on. The injury must be unwarranted, and it must be the "direct" and "immediate" consequence of the action, and not

[1] The law of torts has worked out the subject of responsibility carefully and most instructively. Vide Pollock's, Coolidge's, Jaggard's, or any other standard text-book.

merely its "remote" consequence. Passing over the first specification, which has been mentioned before, the second is plainly based upon the ill-defined extent of voluntary actions. The forces to which they give rise soon merge with, assist and are assisted by, thwart and are thwarted by, other forces, so that remote effects, those that are not immediately and directly due to any given action, cannot safely be traced back to it. Of course, consequences are not called immediate and direct so much in view of the period of time that elapses, as in view of the absence of mediation and deflection by other forces with which they are entangled. And where the consequences are remote, there evidently is no responsibility for them.

In closing this section, it should be just mentioned that the most important distinction here touched upon is that between responsibility with blame and responsibility without blame, or, in terms of benefits rather than injuries, between praiseworthy well-doing and well-doing that is above praise. In the table the dividing line passes between (3) and (4). The distinction is important because it is essentially the same as that between subjective and objective morality, a distinction that divides Ethics into two parts. The discussion of that distinction will be taken up in the next chapter, and need not be anticipated here.

§ 6. Actions and Agents

Actions are morally judged, agents are both morally judged and held responsible. The reason for this distinction is not far to seek. A voluntary action has no existence independent of its agent, and moreover it does not persist to be held responsible as its agent does.

No voluntary action performs itself. In every case the agent in entirety is present, or at least is prevented by no external hindrance from being present. If in acting he fails to consider any interest involved, this — aside from his being unduly hurried, or otherwise disturbed or inter-

fered with, a case of coercion impairing the full voluntariness of the action — is determined by his own character and by nothing else. Nor normally does anything external prevent the modification of the proposed action, nor the appearance in competition with it of any alternatives, equally possible, and in better harmony with all interests concerned. No voluntary action, therefore, stands in independence by itself. What it is in strength, direction, and specific detail, it is because the agent so wills or consents. Properly speaking, then, the action is approved or disapproved not in itself, but as representing and indicating the agent and his character. And the agent is as responsible for his voluntary actions as he is for his own character or inmost self.

But, in the second place, actions are ephemeral. No sooner do they appear than they disappear again into the past, beyond the reach alike of punishment, moral judgment, and reformation. Moreover, were an action to exist for some time, it could not understand moral judgment, nor could it feel moral punishment. For an action is neither intelligent nor sensitive. Indeed, it is only when benefits and injuries are the effects of intelligent and sensitive causes, that it is anything but futile to pass judgment or inflict punishment. Many other forces of nature inflict far more harmful effects, but against them the weapons of morality are ineffective. And in the same category with these forces are to be placed extreme cases of genuinely morbid actions, which are too strong for the will or succeed by taking the will entirely unawares. Actions of this kind are fleeting, independent, detached from will and agency, and therefore beyond the reach of moral influences. The responsibility of the individuals whose bodies perform them is no more real than that of any chance passer-by. And accordingly the real reason for holding men responsible only for voluntary actions is practical. To punish them for what is beyond control

of will is futile, except in so far as punishment teaches to acquire control.

But men are responsible for their voluntary actions because they produce them, understand the judgments passed upon them, suffer from punishment, and appreciate reward.

And the conclusion of this chapter is that men in their voluntary actions are the only moral phenomena, and therefore constitute the subject-matter of Ethics.

For convenience the term "moral" has been used in this chapter as the antithesis of non-moral, in which sense it includes both the moral and the immoral. But, employing a narrower sense of the term, prevailing usage often finds it convenient to oppose moral to immoral. As the main business of the remainder of the book is to distinguish what is moral from what is immoral, the narrower meaning will hereafter be employed, except that where the context renders confusion impossible the usage of this chapter may be employed.

PART I

SUBJECTIVE MORALITY AND THE INDIVIDUAL CONSCIENCE

CHAPTER III

Subjective Morality

§ 1. Perceptional Intuitionism

The reason why one chapter has sufficed for an account of moral as distinguished from non-moral phenomena is that all men agree in pointing out the characteristics distinguishing the former. An examination revealed so minute a sensitiveness to everything that in the least detracts from the full voluntariness of concrete actions that no place was left for doubt, and voluntary actions were picked out as the only moral phenomena. Approaching now the main task, that of defining morality as distinguished from immorality, it will be convenient, and in every way best, to try the same simple method. If every action considered moral or immoral by any man is similarly regarded by every other man, it will be easy for any one, for the ethical writer for instance, to gather as many right and wrong actions as he chooses, and by careful comparison to discover the essential properties characteristic of the two classes. Indeed, the undertaking will be so easy as to be all but useless. The ethical writer need not anticipate what any man can accurately do for himself as often as the necessity arises. Ethics will of course have to prove that every man knows whether any action is moral or immoral, and how moral or immoral it is, but beyond that its task will be comparatively simple. A theory that will so simplify the task of Ethics, if true, is well worthy of examination.

And in fact such a theory, well-named Perceptional Intuitionism by Professor Sidgwick, has been held by common opinion if not by ethical writers. What has been said suggests the nature of the theory, and the name makes it clearer, but for convenience of discussion its three main tenets will be mentioned separately. According to the first every man, in presence of a concrete action, perceives its moral value by intuition, *i.e.* by an apprehension as immediate as that by which men perceive the whiteness of a swan or the blackness of a crow, and as assured as any intuition of mathematics, *e.g.* that two and two make four. According to the second tenet no two men who are honest and sincere really differ in their estimates of the moral value of an action. No doubt men may misunderstand each other in discussing actions, one talking about one action, another about another; or may mistake one action for another, as a calculator may mistake a 3 for a 5; or they may deceive others or themselves in announcing their perceptions. But, as this tenet holds, men do not really differ regarding the morality or immorality of the same action. It is this tenet that has been most ingeniously, and at times sophistically defended. According to the third tenet, every genuine moral perception is valid.[1]

§ 2. Plausibility of Perceptional Intuitionism

First observe that the amount of evidence that can be advanced in support of the three tenets is very large, covering most of the experiences of the busy man's life. Going through his familiar daily round, it is seldom that

[1] Alongside of Perceptional Intuitionism Professor Sidgwick places Dogmatic Intuitionism, which maintains only the "middle axioms" of common sense, *e.g.* that acts of stealing are immoral and acts of friendship moral, and Philosophical Intuitionism, which discusses the fundamental principles upon which the middle axioms are based. These two doctrines will be considered later. Cf. Professor Sidgwick's *Methods of Ethics*, Bk. I, Ch. VIII.

he feels any hesitancy as to what he ought to do, and generally, in his beliefs if not in his actions, he is in such substantial accord with the public opinion of his community that nothing awakens doubt as to the validity of his moral judgments. And although this is no doubt rather true in settled communities where men find their work cut out for them, and is not so true now as it was before recent changes, following mechanical inventions, rendered social relations so much more complicated, yet even now there are many men whose experience will scarcely seem to contradict the tenets of Perceptional Intuitionism.

And even if some discrepancies appear, opposing theories seem to many still more unsatisfactory. The consequences of immoral actions being so serious to the agent as well as to others, and similarly the consequences of moral actions being so desirable, it is difficult to believe that men cannot identify the first to avoid them and the second to perform them. And, if a man's best efforts have been put forth in reaching a decision, it is not easy to convince ourselves that he does wrong in acting on the decision. And finally, do we not admit something fundamentally wrong with the world, do we not embrace pessimism, if we hold that men can honestly differ so widely in deciding what is right as to feel bound to oppose each other in bitter conflict? Is it not more logical to believe that some at least of the conflicting parties are dishonest, negligent, or at least self-deceived in their views? Considerations of this kind undoubtedly, in the eyes of many, stand opposed to the rejection of Perceptional Intuitionism.

Besides, its rejection seems to not a few very unsatisfactory in practice. If in judging a man's morality, not only his intent, but his insight, dependent as it is on differences of native gift and outward opportunity, must be taken into consideration, it will be necessary to make nice and difficult apportionments of praise and blame, respect and contempt, reward and punishment, in place of the good

simple device of heaping benefits upon the righteous and burning the wicked.

Resting thus on widespread experience, satisfying strong moral demands, and appealing to convenience of judgment and treatment, especially for the men of decision, who in every field rule their fellows, it is not surprising that Perceptional Intuitionism should have a large following.

§ 3. Errors in Perceptional Intuitionism

Against the first tenet of the theory conclusive evidence can readily be brought. Many as are the cases where the perception of the morality or immorality of concrete actions is intuitive, there are other cases at least as plain where no intuition appears, and some where deliberation, however long and however assisted by every device of sagacity and learning, results in unavoidable doubt. Everybody knows that he must support his family and conduct his business honestly. No one doubts that the cruelty of a Nero, the sensuality of a Cæsar Borgia, and the ruthless selfishness of a Jay Gould are immoral, for all these actions sin against universally accepted moral laws. But when in face of complicated situations intuition is not so ready. The Catholic inquisitor called upon to inflict untold torture, the Roundhead leading the assault against his old lord and the home of his childhood, the Confederate officer charging the Federal regiment in which he held a commission, is not at once sure of his duty, and having acted may well be uneasy in conscience. And it cannot be said, in these and in similar cases, that it is the immoral who hesitate while the moral are assured. Intuition most often lags, if it does not fail, for those whose consciences take in consequences broadly and sensitively.

And in addition to their default, men change and differ in their intuitions of right and wrong. Every one can think of actions once looked upon as indifferent, but now known to be wrong, and of others once looked upon as

wrong, but now less seriously regarded. And honest differences are probably even more frequent, as the briefest consideration will show. For instance, only bigots will assert that their opponents on the liquor, the labour, the woman, or any other large contemporary question, are dishonest in the opposed views they express. But, much as there is of it, concrete evidence is unnecessary here. Hesitation once established, difference is established, for deliberations have different issues.

And the same may be said of error in moral perception, of the mistaking of right actions for wrong, and *vice versa*. For the evidence is equally abundant. Probably even Catholics would admit that many errors were made at the time of the Inquisition, and certainly but few would deny that errors have been made by fanatics during times of religious stress. And even if it be admitted that the agents concerned are not in error in considering their actions moral, it must then be admitted that the world is in error in considering them immoral. In short, to admit that the same act may appear right to one man and wrong to another, is to admit the point at issue. If morality differs at all from a rainbow or a will-o'-the-wisp, regarding any one act there is but one true opinion.

And, viewing the theory as a whole, do we know so much about the moral government of the world as to know that all virtue lies in intent and none in insight? For the successful pursuit of other practical ends, to determination must be added a sufficiency of good sense, and it would be strange if the merest bungler should have an equal chance of achieving morality. Mere good intentions, however faithfully fulfilled, will not administer well the affairs of a bank, of a railroad, or of a government; and to be sought as administrators, men must be capable as well as conscientious. The fact is, that while different parts of our nature have different values and significance, every part has some value for every end; and for morality wisdom is as indispen-

sable, or nearly as indispensable, as good intentions, being requisite for their formation and guidance. Nor is it logical to take a pessimistic view of the world, because in it there is a penalty for stupidity according to its degree, and a proportionate recompense for good judgment. No doubt with the rejection of Perceptional Intuitionism it becomes apparent that only men with an efficient moral education and outlook will avoid immorality and its undesirable consequences, and cling to morality and its desirable consequences. But this is nothing new. In the intellectual field men are familiar with the fact that ignorance has its penalties, and that does not arouse any sense of injustice. The fact is met like any other difficulty, systematic attempts being multiplied by means of intellectual education to minimize the misfortune. And with systematic endeavour, which does not at present exist, the misfortune of moral ignorance and inefficiency can no doubt be quite as effectively avoided.[1]

§ 4. The Truth in Perceptional Intuitionism

After negative criticism comes positive criticism. Hegel and Herbert Spencer have well taught that no theory of standing is wholly false; that failure to recognize the truth it contains is failure to understand the theory. And Ethics, which is seeking the true conception of morality, cannot afford to neglect the strength of any serious ethical theory, and must accordingly ask what truth is contained in Perceptional Intuitionism. In answer it may first be said that all ethical theories ultimately rest on the perception

[1] The cause of the present hesitancy and diversity of moral perception is to be found in the lack of uniform, and indeed of any moral education. This is in great contrast with the not very distant past, when uniform and authoritative moral training was the rule. At that time errors no doubt existed ; indeed, the overthrow, or rather the gradual decay of the system is a sufficient index of opinion on that point. But hesitation and difference were certainly less general then. It is to be hoped that the near future will see fundamental moral principles established, all but unanimously accepted, and efficiently taught.

of the morality and immorality of concrete actions. For, first, every ethical theory is based on some one's moral insights, and, second, every moral insight is founded on moral perceptions. Taking up the first statement, it has already been shown that, in order to frame a theory of right and wrong, it is necessary to pick out moral phenomena from among all others, and then by careful observation and discernment to discover what characterizes the right and what the wrong. Now moral insight is necessary both for the selection and for the discovery. It is either his own insight, or preferably his knowledge of the insight of others, that tells the theorist that storms which inflict injury, and men who do so in insane moments, cannot be held responsible and are not moral phenomena; and it is by the same means that he comes to know morality and immorality, and their subdivisions, justice and injustice, honesty and dishonesty, temperance and intemperance, etc. The conscience of the ethical authority is a carefully wrought instrument of discernment, trained by much observation and reflection, and the conscience with which he writes his treatise is very different from the conscience with which he began his investigations, and has passed through many forms on the way from the one to the other. Yet, in whatever form it is, only its own insight, or its sympathetic knowledge of the insight of others, can pass on the pertinence of the observed facts as data of Ethics, and on their value as moral phenomena. Hedonists and evolutionists are apt to deny any value to insight, at least in their practice they pass over it without investigation. But the first — and what follows applies *mutatis mutandis* to evolutionists — can say that the right alternative action is always that resulting in the maximum of pleasure, only because of their belief that their consciences, and those of others they know, decide rightness and wrongness on the basis of the pleasure incomes that result from actions. When the hedonist denies this, and asserts that it is pleas-

ure value that decides the morality of an action, he is so narrowly scrutinizing the characteristic of an *action* that makes it moral, that he overlooks the *insight* that reveals to him that characteristic.

And, in the second place, all moral insight is founded on moral perception. Later chapters on the origin and development of conscience will show that men first approve and disapprove concrete actions and only later come to generalize and form theories as to the morality and immorality of general ways or modes of action, and until then full discussion of the subject must be postponed. But even here it is sufficiently plain that genuinely felt approval and disapproval can scarcely exist for kinds of action, unless instances of them have been performed, or at least witnessed. Men do not first approve and disapprove kinds of action, and later on, identifying instances of them, approve and disapprove the latter because they are instances. A boy who has struck and hurt his sister does not stop to think, Wanton injury is wrong, this is wanton injury, and therefore this is wrong. Passing over mere lip moralizing, learnt parrot-fashion, genuine approval and disapproval arise in the first place with acquaintance with concrete acts, and only later spread to other actions of the same kind not yet experienced. Were total absence of experience of actions of a given kind, of cruel acts for instance, possible, it would leave the agent without any moral insight with regard to them. And even though it be true that beyond a certain point familiarity breeds acquiescence in what seems unavoidable, it is true that up to that point moral sensitiveness grows with familiarity. And from the other side also confirmation comes. Where knowledge of the consequences of actions stops, there judgment of the actions stops; and where knowledge of the consequences is extended, judgment broadens to consider them. Actions whose injurious consequences are unfamiliar to most men seldom awaken more than formal disapproval. Because it

is difficult to trace the influence of bad example, men hesitate to blame parents for the evil courses of their children, though these be directly due to the former's bad example. The political life of small democracies, where evils are easily traced to their authors, may well remain pure; but in large democracies, where this is a much more intricate undertaking, it is a problem yet to be solved, whether social and political reformers, whose consciences are stirred by familiarity with the causes and their results, will be able to arouse the masses to indignation at the abuses and corruption that so greatly injure them. The ward politician sees the benefits to himself and to his friends of what he considers slight irregularities, and failing through lack of training to see the many details of injury done the people at large, he does not number such actions among those deserving moral condemnation.

Further evidence will appear later, but probably it is already plain that the *first* word in every one's ethical theory is said by moral perception. If not the finished product, moral perceptions are the raw material of ethical theory. Perceptional intuitionists are in error in asserting that all moral perceptions are intuitive, as they are in asserting that all are valid, but moral perception is from the nature of the case at the basis of all ethical opinion, and in that important sense their theory is justified. For a practical man or for an ethical scientist to attempt to frame a theory on any basis except the perception of moral phenomena is as impossible as it is for the chemist to build up his science without observing elements and compounds; and theories based on partial and inadequate observation are unscientific quite as much for the one as they are acknowledged to be for the other. All ethical insight is based on moral perception, and for adequate ethical insight and theory, adequate moral perception is indispensable.

§ 5. Subjective Morality

It is now necessary to determine the morality of actions that follow the agent's moral perceptions. For in a sense still more important Perceptional Intuitionism is fundamentally right. Ethical theory, namely, deals with general ways of acting, with the "middle axioms," as well as with particular moral actions, but morality itself is made up exclusively of concrete actions, and whatever else is needed to make an action moral, its agent's apprehension of it as moral is essential. When the reasons in support of Perceptional Intuitionism were being considered, an attempt was made to give some idea of the strength of the aversion to admitting that a man can do wrong after using his utmost endeavour to decide what is right and to follow the decision. Afterwards, when objections were considered, they forced the admission that even such ample fulness of endeavour might not avail a man in doing the full measure of right demanded by the highest standard, the same conclusion having been reached when the responsibility for the consequences of actions were being discussed. But now it must be pointed out that a man in following his best insight cannot do wrong, but on the contrary achieves morality in very large measure. In fact, two propositions are here involved: that conscientious action is moral in a very real sense; and that action disapproved by the agent's conscience is immoral, whatever its beneficial results.

Little need be added in support of the first proposition. No one, it is safe to say, would deny that to act from *one's* best insight, to act in accordance with one's conscience, is to act morally, with reservation always of what one has done to perfect one's conscience. And this is true, although one must act in accordance with *the* best insight, in accordance with the wise conscience. if action is to be perfectly moral.

But a difficulty, or rather a confusion, is likely to arise in determining what acting in accordance with one's insight or conscience means. And, first, it would be an error to understand this as meaning that a man acts morally, to the extent claimed, only when his conscience expressly approves him. Objections to demanding that men shall scrutinize all their actions have already been mentioned, and more will appear later. Besides, every man's conscience is sensitive to proposed wrong-doing, and where it entirely fails to oppose, it may be assumed to approve — its silence is its consent. All that is meant is, that an action is really, even where imperfectly, moral, either when conscience approves, or when conscience does not disapprove it. In the normal man, on the average, scarcely an action a day has the explicit approval of conscience, and yet most of these actions are admittedly moral. But there is one caution that all insist on in this connection: an undoubted lowering of the morality of the act is occasioned, especially if it turns out to have injurious consequences, if any suspicion of its morality, if any adverse whisper of conscience, is disregarded.

Again, still less can it be held, with Kant, that an action is not moral unless it is performed in opposition to desire, and solely because conscience demands it. In support of his position Kant says, that all actions performed from inclination or desire are on the same natural or non-moral level, and that the fact that some of them happen to accord with conscience or duty is accidental to them, not essential, and cannot therefore raise them to the moral level. But the facts do not here support Kant. Many actions universally approved and regarded as moral, patriotic and family service for instance, are generally performed largely from inclination, and indeed cannot otherwise be performed in fulness and with finish; if done merely from a hard sense of duty the finishing touches that render them acceptable are lacking. And besides, the contention involves a

curious inconsistency. Actions faithfully performed from a sense of duty soon come to be performed with inclination, whereupon their performance is doubly assured. And it cannot well be maintained that, though moral before, as soon as that double assurance is secured they, and their agents in performing them, cease to be moral. Again, Kant intimates that actions performed from inclination (*e.g.* a kind act motived by affection for the beneficiary), give no evidence of the morality of the agent, for similar actions (*e.g.* another kindness), equally obligatory, may fail of performance on other occasions when the inclination is absent. But, taking a particular case, though spontaneous beneficence to one individual may not insure beneficence to others equally entitled to it, yet it does not prevent such further beneficence, or even render it unlikely, and it certainly does give large assurance that duty will be fulfilled, in so far as it consists in benefactions to the individual first mentioned. But again Kant suggests that morality essentially consists in self-control, *i.e.* in control of one's natural inclinations and impulses, which are in fact its only opponents, and that there is consequently no morality where self-control is not exercised. But even Kant's high authority cannot here avail. No doubt control of vicious or immoral inclinations is moral, and the man who wins the victory over unworthy passions is entitled to all praise. But it does not follow that men with passion or even with inclination for actions prescribed by duty are not moral, or are less moral. Kant sees one class of moral actions with such intensity that he thinks it the only class; whereas another class is at least equally moral. For, looking at the question quite generally, of two men assumed to perform the same dutiful actions, the one against his inclinations and solely by dint of self-concontrol, and the other from free-flowing natural inclination, the former probably would, so far as the description goes, be considered more heroic, and as likely in time to achieve

a noble morality, but the latter would certainly be regarded as being moral, as being in fact more fully and securely moral. Besides, the performance of some actions from inclination, as in the second case, in no wise implies that there are not other actions performed solely for duty's sake. In the most effectively moral men a division of labour obtains, some obligations being fulfilled from inclination, and others solely or chiefly from a sense of duty. And, comparing the two, morality is more complete in the first case, where it is spontaneous and ingrained in second nature. For complete morality is inspired by the emotions, in addition to being guided by the intellect, and held strong by the will — the law must be discerned clearly, and firmly obeyed, but love is its fulfilment. In order to be moral an act need not then awaken its agent's aversion, nor, though this does not detract from it, need it secure the express approval of his conscience; but if it arouse the disapproval of his conscience, it cannot escape immorality. In short, actions are genuinely moral, when conscience does not so much as intimate disapproval, when conscience approves them, and when they are performed solely for conscience' sake.

Passing to the second proposition, a distinction will assist understanding; for an action disapproved by the agent's conscience may either in fact be immoral, or may be mistakenly disapproved, being the action called for under the circumstances. In the first case there is no difficulty; an action is certainly immoral if its agent rightly considers it immoral. The only debatable part of the second proposition may accordingly be resolved into the statement that, even though an act accords in every other respect with the strictest moral requirements, it is wrong for him if its agent thinks it wrong. In other words, a right act done from a motive its agent thought to be wrong is wrong. After what has been said the point will no doubt be conceded. Conscientious action is fundamental for morality, and there

is no surer way of undermining morality at its base than establishing in the agent the habit of disregarding his conscience or best insight. And this danger is present in every act in which the agent is conscious of the moral issue. For every act of the kind either strengthens or weakens the influence of conscience over the agent, makes it more or makes it less likely that in the future he will follow his best insight. It goes without saying that the preceding remarks have in mind well-assured deliverances of consciences which their possessors have no reason to suspect of arrogance or dishonesty. When any of these conditions do not exist, when consciences are not assured, when they lack due modesty, and when selfish desires or mere obstinacy are known to masquerade in their semblance, their unfortunate possessors are not considered immoral for declining to follow them in opposition to the views of more reliable moral natures. Many further distinctions might be made, but it is probable that they would confuse rather than clear up the issue. No one would deny that when a man's conscience is in no doubt, and when the man has no distrust of his conscience to stifle, he cannot disregard it without acting immorally, and proper allowance can be made in cases where these conditions fail, in any measure, of fulfilment.

Summing up, it may accordingly be said that, though Perceptional Intuitionism is in error in holding that every moral perception is valid, and consequently in error in holding that action in accordance with conscience is fully and adequately moral, yet the theory is largely justified, inasmuch as conscientious action is genuinely moral and contra-conscientious action is immoral.

As there is a great deal more to be said about conscientious action, it will be well to adopt a more convenient name for it. Subjective morality or rightness is a name sanctioned by the usage of ethical authorities, and significant as indicating the actions considered right by the con-

science of the subject or agent. Besides, it is in convenient antithesis to objective morality or rightness, the body of actions vouched for as moral by the standard or wise conscience. The relation of the two will be easily remembered if we bear in mind that every action that is moral at all is subjectively moral, while objectively moral actions not only follow their agent's conscience, but also command the approval of the wise conscience, to which in such cases the agent's conscience conforms. As it is on a basis of a full discussion of subjective morality that the more difficult task of understanding objective morality can best be approached, the two parts of the former, voluntary action and conscience, will be considered at length during the remainder of Part I. Voluntary action is well treated in works on psychology, and only one chapter will be devoted to it here. But conscience is little considered by psychologists, and there will be need for chapters on its nature, cause, and origin and development both in the child and in the race. Part II will investigate objective morality.

The Term "Conscience." — Usage sanctions two employments of the term "conscience," and a few words are necessary to indicate which will be used in the following discussion. In the broader meaning conscience denotes man's moral attitudes towards all actions, whether they be his own or those of others; in its narrower meaning it denotes the individual's attitudes towards his own actions. Among learned writers, Martineau, and Elsenhaus in his recent work, hold that conscience denotes all approvals and disapprovals, while Wundt and Mackenzie[1] may be mentioned as declaring for the narrower meaning. In such a case of divided usage choice is open, and convenience the highest test. For the purposes of the present book, the evident convenience of having one word to designate all moral attitudes decides for the broader meaning.

[1] Indeed, Mackenzie's definition is narrower still: for him conscience includes only *disapprovals* of one's own actions.

CHAPTER IV

Voluntary Action

§ 1. The Dynamic Law

Of the greatest importance for the understanding of man's active nature as a whole, is the understanding of what Professor Bain calls the law of diffusion. This is Psychology's law of causation, and it is not without significance that its statement is the reverse of that used for the popular scientific law of physical causation, as Dr. Venn has termed it.[1] While in the physical world it is held that every event has a cause, in the psychic world the basal law asserts that every event has an effect.[2] By Professor James a less technical form of statement is adopted;[3] every state of consciousness, he says, is motor. Now this means essentially that the presence of any state in consciousness brings about some change in the total content, over and above its own appearance. But in one respect Professor James's statement might mislead, for it would seem that the change need not always be motor, but may sometimes be preponderatingly, or even exclusively, emotional or intellectual. But intellectual and emotional states eventually incite movements, and so it comes to much the same thing; the appearance of a state

[1] *Empirical Logic*, Ch. II.

[2] In the former the practical interest is in finding a sure way of producing what we want, in the latter, in discovering what man, and what peculiarity of his, undoubtedly produced certain results.

[3] *Psych.*, Ch. XXIII.

in consciousness initiates a movement, or affects some of those under way.

§ 2. Man's Lower Activities

Automatic and Reflex Actions. — At the basis of man's distinctively human behaviour, and always in part constitutive of it, lies unconscious movement, or at least movement unconscious of its effects, *e.g.* the ceaseless movements of the restless child, characteristic reactions to heat and cold, light and darkness, etc. In this new field there is no recognized classification, but for our purposes it will be convenient to divide the movements mentioned into automatic and reflex; which may be distinguished from each other by their excitants. Automatic actions are excited by internal states, having their seats somewhere in the body; reflex actions are excited by outer objects, that stimulate one or more of the special sense organs. The bodily states which arouse the former sometimes are and sometimes are not represented in consciousness. It is probable that many digestive and vascular changes which excite reactions are themselves unrepresented in consciousness. At all events it may be said that many of man's vegetative functions are not normally paralleled by *distinctly* apprehended states of consciousness.

On the other hand, reflex actions are at first aroused by sensations of the special senses, which, as mere sensations, consist in unrecognized elements fused with the total content of consciousness. But these interesting sensations appear repeatedly, are rich in benefit and injury, and so come to arouse special attention and to be perceived. Thereafter it is the perceived object that stimulates the reaction, a very important change. Nevertheless the capacity for deliberation and decision does not yet exist.

Ideo-motor Action. — Tracing the development of reflex action further, gradually the reactions excited lead to active commerce with surrounding objects, and thus yield

experience which tends to survive in memory. In so far as memory is established, the experience that before unexpectedly followed the reaction is later on foreseen and expected when for any reason the impulse appears; and, in virtue of the dynamic character of all mental states, such expectations either strengthen or weaken the impulse. In some cases, of course, it is not the impulse that awakens the expectation, but rather the idea of possible absent experiences, suggested by association, that awakens the impulse. When such an idea, alone or assisted by a perception or sensation, instead of a perception or sensation unaccompanied by any idea, is what stimulates to action, the performance is called ideo-motor. The child that seeks its mother for comfort when it is hurt, gives a good example of ideo-motor action. At this stage the agent foresees what will happen, but he is not yet responsible for it, for he has as yet no control over his action.

Deliberation. — Here it is that deliberation appears. Recall again that each action, by changing his surroundings, will bring in many experiences to the agent, at least some of which he can now foresee, when the action is contemplated. Moreover, each foreseen experience is a dynamic idea, that strengthens or weakens the original impulse, and that may, in the latter case, arouse another impulse that blocks the first — if one is carried out, the other cannot be. Thereupon deliberation is initiated, and the consequences of each course begin to spread out before the view. Seeing some meat, a bear is tempted to approach and seize it. But there is also the smell of man and of steel, and they bring up pictures of struggles, terror, and sharp pains. Still the smell of the meat is delicious, making the bear's mouth water and his fangs drip. Besides, no steel is visible, and no man in sight. And so the bear approaches. But as he does so the steel and man smells increase, the horrible pictures become more vivid, and panic and flight may ensue. And so in a simple case impulse suggests idea, idea suggests counter

impulse, each impulse with its attendant ideas rallies its followers, and deliberation is under way. Widely as they differ in importance, all deliberations are of this same kind,[1] marshalling the rival arrays of consequences, till in man the fate of countless numbers may be held in the balance of these delicately wrought ideal scales.

§ 3. Voluntary Action

Voluntary action first appears with effort and consent, which give the sense of control, and are the most significantly if not the most powerfully dynamic of psychic states. This is not the place to describe them as facts of consciousness, nor to discuss their relations to physiological conditions. Both questions are still under active discussion by psychologists. But effort and consent undoubtedly exist, and they are decisively effective in determining action. Whenever an action is willed, effort is present; whenever an action is done willingly, consent is more or less distinctly felt. Consent is strongly felt when a natural impulse, backed by the bodily self (see the next section), and usually opposed by another impulse, is allowed to find its way into action, notwithstanding the sense that it could be restrained. In order to consent, at least the felt possibility of restraining the natural impulse must be experienced. So much a very slight exercise of introspection will make plain. The rôle of effort accordingly is to come to the support of a weaker impulse, and either to overbear its naturally stronger opponent by its own dynamic force as a fact of consciousness, or else merely to hold it in check until the weaker impulse gains time to rally other considerations to its assistance. Consent, on the other hand, is either the cessation of effort, or at least includes the sense that effort could be put forth and control exercised, and thus its presence indicates either that control was ex-

[1] In human deliberation the ideas are consciously representative, in animal deliberation they are not. Vide Ch. VIII, § 2.

ercised, or that it might have been. Both, therefore, indicate the possibility of deliberation, and the ability of the self as a whole to focus itself upon and control the action contemplated, as was seen in previous chapters. This, it will be remembered, is what justifies holding men responsible for their voluntary actions, and for them alone. Without effort and consent genuine decision is impossible.

The great complexity of man's nature is due to the countless number of his motor tendencies, aroused by all the innumerable internal and external conditions that affect his consciousness. Moreover, the different impulses further and oppose one another most intricately, and far from being isolated facts, are associated in a complicated hierarchy of larger and smaller groups, which in turn act as units more or less firmly compacted. The body of impulses present in any one can appropriately be likened to a modern army, governed throughout in all important movements by one supreme head — analogous to the self in effort and consent — in spite of the complicated subdivision into corps, brigades, regiments, companies, and individuals, capable at times of acting with an independence that amounts to insubordination.

§ 4. Motor Efficiency of Sensational Components

From what precedes it will be clear that sensations, perceptions, and ideas all arouse tendencies to action. Of perceptions and ideas nothing more need be said at present. But sensations differ so in kind and importance, that they must be further considered. Three kinds may be singled out for mention: emotions, the feeling of effort, and the undifferentiated mass of cenesthetic sensations. Emotions, as we now know, consist, in large part at least, of massive and fairly definite groups of organic sensations, aroused, as the word indicates, by changing states of the inner organs of the body (*e.g.* of the heart and respiratory organs). Such groups are often associated with

perceptions and ideas, and then by their intensity and mass they lend the latter a large increment of energy incitive of action. It may well be doubted whether ideas, with their small intensity, would ever lead to action in opposition to intense present stimulation, were it not for the assistance of the emotions. No doubt in adults ideas may lead to action even when unassisted by emotions, but this is due to the strength of the habitual bond between the ideas and the actions, and it seems improbable that such a bond should have been formed without the assistance of the emotions. The motor power of feelings is well known, and this knowledge it is that the orator puts to such skilful use in his powerful appeals.

Effort. — But most important among man's organized groups of common sensations is the feeling of effort, which is made up in part of sensations of movement and in part of cenesthetic sensations, as will appear in Chapter VIII, § 2. And its importance is due partly, as has been suggested, to its decisiveness, to the fact that it holds the balance of power, and partly to its association with ideas and convictions, as distinguished from vague feelings and untested opinions. Of course, in itself considered, the feeling of effort is by no means as massive as some feelings, *e.g.* rage or love, and by no means as intense as others, *e.g.* curiosity or pain, and were it not for its advantage of position, its dynamic efficacy would be negligible. But in its rôle as arbiter between well-balanced and mutually opposed inclinations, effort generally finds itself supported by other feelings, which lend to it a mass and intensity that, added to its own, frequently enables it to gain the ascendency. Nor should it be supposed that effort takes sides, so to speak, at random and without plan. For, in fact, effort, for reasons imperfectly understood, is normally on the planful or ideal side, on the side of conviction as against mere impulse. At least, it is on this seemingly reasonable side in so far as it appears at all. A man does

not put forth effort to encourage his unreflective impulses, but so far as he tries, he tries to curb them. Effort is accordingly the decisive force that makes for reasonable and convinced action, and as decisive it is powerful, while as making for reason it is very significant. Otherwise put, effort supports the reasonable self as against the unreflective inclinations over which the latter undertakes to rule, and in that rôle it may well be likened to the police force that maintains the authority of the government over individual subjects or private associations. Moreover, like the police force, it is effective only if loyal subordinates are, at the worst, little short of a majority.

The Bodily Self. — Very nearly as important as effort are the inclinations over which it rules, and which, so far as they rest on sensations, constitute the bodily self. There is much about the self that baffles psychology, but on one point at least the authorities are in agreement; the ever present mass of undifferentiated bodily sensations are a fundamental, if partial, constituent of the self. For the evidence supporting this statement, the reader must be referred to special works.[1] Most of the evidence is taken from observations of the diseased sense of self, and is generally admitted conclusively to establish the fact that the bodily self is made up of cenesthetic sensations.

Temperament and disposition, also humour and mood, are familiar names for the bodily self, looked at as a more or less permanent entity, and every one is familiar with the influence of these aspects of the self over conduct. A man is alert or inert, nervous and timid or firm and steady, blue, despondent, downcast, or happy, hopeful, and enterprising; now his one prompting is for open air and exercise, later a cosey chair and a book suit his mood, and

[1] Vide Ribot, *Diseases of Personality*, and for an important recent correction of Ribot, Royce, "Some Anomalies of Self-consciousness," *Psch. Rev.*, Vol. II, No. V.

again the excitement of some political or other gathering and the thick of the fight will alone satisfy him. At all times his bodily self is present in one mood or another, and is there strongly to urge its momentary claim.

Broadly speaking, the influence of the bodily self on the individual's actions may be likened to the influence of the body of the people on governmental action. Normally the national decision is voiced by the officers of government, but this decision rests on and is significantly influenced by the temper of the people; partly because the leaders, being of the same stock, share the deeper-lying popular will, and partly because the latter imposes on them with a well-nigh hypnotic irresistibleness. In an individual the situation is strikingly similar. An intelligent will that is persistent can always eventually achieve mastery over the blind natural inclinations, but this sovereignty, too, rests on the consent of the governed. Unless our moods and appetites themselves are taught to aim high, they will constantly elude or overreach the will — a parallel to the political truth that the strength of a democracy depends upon the character and enlightenment of the people. As the people, when united, can drive the officials by their bodily mass, or by weight of inertia hold them back, so the temperamental inclinations can, when in mutual accord, drive the reason, hold it in check, and in general warp it to their own will. When the concord among subordinates is less perfect, the leaders, in the individual and in the nation, often have their will; either by interposing delay to give opportunity for sober second thought to gain converts and swell the minority into a majority, or, occasionally, by the "slow dead heave of the will," as Professor James vividly describes it, and its political correspondent, a strong, coercive government. But normally, in healthy states and men, either there is harmony between controlling and controlled, or else the body politic or human is divided against itself with ap-

proximate evenness, at least a respectable minority rallying to the support of the rulers, and thus giving them decisive power. And all this shows that, whether to be controlled by the will, or as lending its powerful support, the bodily self is always a mighty force. On this dark, blind background stand out the emotions, impulses, perceptions, and ideas already mentioned, rising step by step in clear-cut distinctness and intelligence.

It might be inferred from what precedes that the power of psychic states over actions depends merely on the intensity and mass of the states in question. But, pending a fuller discussion in Chapter XV, it should be mentioned that the quality of the states and the closeness of their temperamental and habitual connection with the actions involved are at least equally influential factors. In addition to intensity, duration, and mass, every psychic state has quality, and, moreover, is connected more or less closely, because of the inborn temperament of the individual and because of his character, with every tendency to action that appears. And, if anything, quality, temperament, and habit have even more to do with the influence of a state over action than intensity and mass have.

§ 5. Ends of Action and Interests

It has already appeared that sensations, perceptions, and ideas all stimulate to activity, and in the last section the dynamic power of sensations was discussed, while in earlier sections the rôle of perceptions was sufficiently considered. The purpose of the present section is to discuss ideas in their relation to actions. There are many things of which men think, and the question is, Which of these things, when thought of, stir to action? Or, since foreseen ideas that stimulate to action are called ends, aims, or interests, the problem to be solved is, What are the ends, aims, or interests of man? The purpose here is not so much to discover the relative dynamic efficiency of

ideas, as to work out a helpful classification of the principal aims that call out the activity of man.

When we consider the number of men, the number of actions each performs, many of which hold several objects in view, and when we further consider the literal infinity of detail in every achieved end, it becomes evident that it is impossible to give a concrete account of aims or ends. We must be content, as science always is perforce, with giving a sufficient account of their most important kinds. And in fact, the discussion will consider only groups of ends so important that each contains objects every man strives to attain. Such ends may be called interests, or more precisely, human interests, to indicate that their hold is universal over men.

As Professor Dewey well points out,[1] men are interested both in persons and in things, and are concerned to alter them or their fate in various ways. The idea of your friend, John Smith, thinking this, being that, or having the other may be attractive to you, and then you will be interested in realizing the idea. And so it is, allowing for obvious differences, with the thought of the plot of land you own, of the view from your front door, of the decorations on your walls, and of the church to which you belong. Speaking generally, for the subject will be more fully discussed in Chapter XV, men are interested in persons, in quasi-persons, — a term to be defined presently, — and in things, some of the important examples under these classes being one's self, one's associates, one's country, church, occupation, or calling. When the idea of a satisfactory state or fate for any of these objects of interest appears, it easily stimulates to activity. But, since for Ethics interest in persons and quasi persons is more important than interest in things, for reasons that will appear in Chapter VI, only the former interests will be here discussed.

[1] *Outlines of Ethics*, XXXIV.

Interest in Self. — Most prominent and easily recognized is the interest in self. Each man would like to remain many things that he is, to become many things that he is not, and to possess many things that he has not. Hedonists say that man's only interest is in getting pleasure. But this is an exploded error. A young man's idea of *enjoying* the office of governor, or of enjoying the position of a prominent attorney, is, no doubt, very interesting. But the thought of *being* governor, or of being a prominent attorney, in itself and aside from any thought of the pleasure to be derived from the position when attained, is at least equally interesting and incitive of action towards its attainment. Every one wants to be some particular kind of man, some particular kind of self, and is more interested in the kind of man he is than in the kind of experience he has. The point is not that there is no interest in getting pleasure — though there is even more interest in being a satisfactory kind of pleasure-getter, for there are kinds of pleasure-getting that make a kind of man unsatisfactory to think about. The point is, that the main interest is in the kind of man one is. One wants to be, among other things, a man of education and culture, of social tact, of practical business capacity, a man of satisfactory achievements and capacities, and with a satisfactory station or place in the world. These are among man's ambitions for himself, and, in general, a man's interest in self is chiefly interest in being a man of a satisfactory type.

Interest in Other Persons. — At one time it was held that interest in self is the only direct interest, while interest in others is merely indirect, or for the sake of what they can do for the interested individual. But that view is mistaken and is no longer held by the well-informed. At the outset much confusion will be avoided by realizing that interest in others does not offer any logical or psychological impossibilities, though associationists have assumed that

it does. It is not true that because I am the one having the interest, therefore the interest must be in myself. Interest is merely a feeling, and there is no *a priori* reason for its attachment to this object rather than to that; observation alone can show the objects to which interest attaches.

Even among animals sympathy with and interest in others exists. Among higher animals parental affection is very strong, and among gregarious animals instances of mutual affection and aid between individuals of different families may often be observed. And among men, mother's and father's love, friendship, neighbourliness, and other forms of friendly feeling grow in strength in proportion as advance is made beyond the stage of savagery. These facts lie on the surface, and can be overlooked only when the observer is blinded by some preconceived theory like that of the associationists.[1]

And looking at the question from the evolutionary point of view, and remembering that interest in an object means commerce with and fostering of that object, the reason for the presence of the feelings mentioned is not difficult to find. For only those animals can survive that have interest in, *i.e.* that have commerce with and that foster, the objects it is to their advantage so to treat. And, in the first place, species are strong only if each individual fosters and cares for himself, since each can, on the whole, do this much better than any one else can. But, in the second place, where all are dependent on society and on the welfare of others for their own welfare, as is the case among gregarious animals and men, it is also to the interest of all to foster others. It is to the interest of gregarious animals to belong to societies made up of strong individuals, but it is also to their interest to belong to strong societies. And societies can be strong only when there is mutual interest and aid among their members.

[1] Cf. Ch. XII, § 3.

In short, where there is no mutual interest and aid, or where either is insufficient, gregarious societies and their members perish. And where these societies survive, and especially where they prosper, mutual interest and aid must be present as prominent factors.[1]

Finally, to be swayed by interest in others is to desire for them much what one desires for one's self, *e.g.* education, capacity, a competency, etc.

Quasi-persons and Interest in them. — There are things that awaken in men much the same interest that persons do, and as such things are always personified, *i.e.* thought of as persons, it will be convenient to call them quasi-persons. We will first discuss the practice of personification, which is more common than is generally supposed, and will then consider briefly man's interest in quasi-persons.

Much the most natural course is to personify all objects about us. The world of the savage teems, as he thinks, with conscious beings. Fetichism, totemism, in general, animism, constitutes his philosophy. His spear, his bow and arrow, his stone or bronze kettle, the spring from which he fills it, every tree and the rainstorms that sweep over it, the heavens, and the sun itself — all are persons to him, just as real and human, though in some cases many times as powerful, as his fellow-tribesmen. The progress of man towards civilization might be measured by the process of depersonification, during which he strips one object after another of the masks and trappings of humanity with which his ancestors clothed them, and calculatingly scrutinizes their simple thinghood to discern the best uses to which he can put them.

[1] Cf. Ch. VIII, § 5, discussion of individual welfare, Ch. XII, § 3, and Ch. XV. As will appear at the points refered to, interest in *self* and in other *selves* is possible to man only. But animals have interest in each other, if not in each other as selves, and nothing would be gained by complicating the present problem by premature explanations.

But the civilized child of to-day has not departed any great distance from the practice of his savage ancestors in respect to personification. He cannot but punish the offending doll or other toy that hurt him. In the schoolboy his debating society or baseball nine awakens interest, responsibility, even the sense of obligation, especially if he has taken active part in maintaining it, and if aptitude renders the part congenial. And at college it is not only athletic organizations, but the fraternity, political, and other humane associations, and Alma Mater herself, that a generous enthusiasm endows with personal attributes.

And men are but children of a larger growth. The soldier thinks of his regiment in personal terms, attributing to it such qualities as honour, dash, steadiness, and even pride in his prowess and shame if he prove a coward. The party man believes in "the grand old party of moral ideas," and suspects the motives of its opponents. And "Mother Church" of the crusaders' time held the enthusiastic devotion of men who, if living to-day, would probably but indifferently regard her unpersonified successors.

In short, anything capable of growth and decay, and in which either can be fostered or retarded by the individual, is likely to arouse his interest. Nor is the reason for this far to find. Even after man has learned that things are not persons, things that grow interest him. Whatever grows has a future of possibilities, has, to use a hackneyed but expressive phrase, a manifest destiny, to which it may more or less successfully attain. Foreseeing this destiny, anxious that defeat should not prevent its being compassed, it is but a step for the individual, too absorbed to reflect, to read purpose into prospect, and to attribute determination to succeed and some capacity and standard in the selection of means, where, no doubt, none of these personal qualities exist.

Where the interesting growth is a body of men organized for some definite purpose, the situation forces one

even more strongly into personification. At the head of such an organization there always stands a man, who seeks to realize its purposes and to maintain its ideals of method, so that the entire body acts as an intelligently guided whole, with a character more definite than many persons have. One college society will have none but gentlemen, another prides itself on its goodfellowship, a third has its eye open for students of high standing. What the others stand for is indifferent to each, but deny the attainment of what each has undertaken to do, and a pride similar to that aroused by personal accusation is stirred in defence. To be sure, one head of an organization gives way to another, and in young and unsettled bodies this may give rise to a chaotic conflict of purposes that closely simulates individual insanity. But this cannot last long, for every vital organization soon accumulates a well-established body of objects of desire, of indifference, and of aversion, and a code of practices that custom and, later, tradition demands shall be done and left undone. Then even leaders are bound, sometimes with appalling strictness, by organic demands, and the originality allowed them is within prescribed limits. Thus to say that the organization has found its will and knows its own mind, if psychologically inaccurate, is practically descriptive; and so the practical man in fact conceives the situation. Nor is it surprising that an organism with a will and a mind should awaken in him interests similar to those aroused by persons themselves.[1]

Neither will space allow, nor does necessity demand, a detailed account of quasi-persons and of the interest they arouse. The most important among them are the State,

[1] Hegel and his followers maintain that some human institutions, *e.g.* the family and the State, are in fact persons, and more than might be suspected offhand can be said for this view. Here no position is taken on that metaphysical question. We are concerned only with the fact that man does, rightly or wrongly, conceive many things in personal terms.

the Church, the family, and business or professional establishments. Besides these there are many minor quasi-persons. But not all the major quasi-persons can be described here, and a short account of interest in the family must serve to suggest the genuine interest in other quasi-persons.

The range of individuals regarded as belonging to his family may differ widely from a man to his neighbour. Some families include those who are not related by blood, and all families, even Scotch clans, exclude many that are. It is not so much a matter of blood as of life and ideals in common. And whoever the individual members are for any man, there are always some things he is concerned that members of his family, including himself, should, as such, be, do, enjoy, and escape. What these interests are, of course, varies widely. A style of living and deportment that satisfies a family in a mining camp would, if practised by any member in a large city, seriously disconcert the rest. A family which through generations has numbered eminent scholars, professional men, and statesmen among its members will make all endeavour to guide the latest generation along the same paths, and will be much distressed if any forsake them for less dignified callings, *e.g.* if one becomes a pawnbroker or a saloon-keeper. But not all family members are equally docile and sympathetic in deference to and in understanding of public opinion and family tradition. These forces can do no more than guide the individual in the formation of the idea of family practices that most strongly appeals to him. A young man may, almost unknown to himself, wish that his family were rich and powerful, rather than poor and scrupulously honest; and if the wish is harboured it may grow into an interest. Another may wish that, instead of having erratic genius, his family possessed homely common sense; and to the family store of the latter he may add if he perseveres. The spontaneous interests of the

individual, family tradition, and public opinion, together determine what any one desires for his family.

Again, some conditions are especially potent in deepening the family consciousness. It is likely to be strong, when an impressive ancestry have established the family reputation; when an individual by his personal force has practically founded a family, interest in his handiwork here reënforcing his normal interest in family; where society is organized into hereditary classes, when all social intercourse makes constant appeal to family feeling; and even so seemingly unimportant a possession as a family portrait gallery may strengthen and render specific family interests, by giving embodiment to family character. It is not, however, of such extreme cases that we chiefly speak. The point is, that every man has some interest in family, and that, however limited it be, it is quite as spontaneous as any interest he feels in himself. And in all this it is plain to see that one's family is naturally thought of as a person, capable of desires and aversions, of opinions adverse and favourable, of achievements and failures, and it is this personification that permits the same kind of interest to be taken in the family and other human institutions that is taken in one's self and in other persons.

§ 5. Summary

The purpose of this chapter has been to give an account of voluntary action, which, joined to conscience, constitutes moral phenomena. Its setting in and rise out of man's lower activities has been sketched, and its makeup has been analyzed, by showing its specific characteristics, the motor potency of the various elements out of which it is composed, and the character of the aims, objects, or ends that call it forth. Much specification has been omitted, for the inquiry has been conducted with the single purpose of eliciting facts of ethical

importance. It is for that reason, and in view of the overshadowing interest of Ethics in actions that affect persons, that a full account was given of the interest in persons and quasi-persons. The importance of these interests will begin to appear in the next chapter, and will grow constantly clearer as Part I is developed. If the Dynamic Law, with which the discussion opens, is understood, the whole chapter will be clear.

CHAPTER V

The Adult Conscience

§ 1. Introductory

The aim of Ethics is to find out what actions are right and what actions are wrong, not to secure an accurate psychological description of the "faculty" that gives this information. But since different consciences give conflicting testimony, and so leave us in doubt, it becomes necessary to find out as much as possible about these our only witnesses, in order to estimate their relative expertness, and to piece together the truth about right and wrong out of their many statements. The result of an examination of consciences will be to show that, notwithstanding their differences, they are significantly accordant, and that strong forces are at work increasing this accord, forces men could bring into even stronger play if they but knew it, and cared to exert themselves.

The complexity of conscience is generally pointed out by the text-books, but for our purposes it will be well to carry the analysis down to more concrete details than is usual. The division of conscience into an emotional and an intellectual aspect will be accepted, but further, the principal component emotions and ideas, and especially the organization into the moral ideal, will be described. The occasional conflicts between the two aspects will testify to their existence. A man may come to *see* that an action once thought wrong is right, or *vice versa*, without being able for some time to bring his moral *feelings* into accord

with his new insight. An immigrant into New York City from a small New England town, where all traffic can be suspended on Sunday, although he sees the necessity, may not at first *feel* right about working on that day. Further evidence will appear as the moral emotions and ideas are separately discussed.

§ 2. Conscience as Feeling

One of the first lessons of logic is that no species can be known until its genus is found and to some extent understood. Many important truths about man were unknown until the fact was faced that, although the highest, he is still an animal. And similarly, the moral emotions will remain dark and mysterious until we fully realize that they are *emotions*. In view of the overshadowing rôle they play in human life it is natural and wholesome that they should be looked on with respect and awe, but, whatever its value — maybe it is not for all — the business of science is to understand its phenomena. Whatever title the moral emotions have to genuine respect they have, and true science will do it justice.

It is difficult to describe emotions, and impossible to describe them sharply. The field of the emotions is not divided off into distinctly bounded blocks; it is like an impressionist landscape, whose outlines, unseen by the eye, are read in by the imagination. Each is largely made up of systematic sensations, shared in part with other emotions, and all shade into one another by imperceptible steps. Besides, when the components are faintly present, they are unlikely to arouse attention, and when they are tumultuously present, they are so absorbing and arousing as to repel and hamper introspection. But fortunately the moral emotions are familiar, and mention of their salient features will suffice. The trees may be overlooked, but the forests will appear the plainer.

Responsibility, Obligation, and Free Performance. — The most important moral emotions fall naturally into two groups, each of which complements the other. The first group includes the feelings of responsibility-obligation and of free performance, which appear only when the agent's actions are in question. The second includes approval and disapproval, feelings that are at the basis of moral judgments which are generally passed on actions not the agent's own. Writers who look upon conscience as concerned only with the agent's actions have their attention centred on the first group of feelings, whereas writers who interpret conscience more broadly, consider the second group also. Another distinction between the two groups is, that the first, directly affecting the agent's actions, is more closely connected with the will, while the second group, giving support to moral judgment, is more closely connected with the intellect. The two groups will be discussed in order.

Responsibility may be felt in general or in particular; it may be a mood or an emotion with a well-defined object. The engineer running a passenger train at the height of speed, the trustee administering the fortunes of defenceless minors, the absolute monarch who knows he is charged with the destinies of a whole people, are normally in a responsible mood. They feel responsibility, not for any particular action, or to any particular person, but in general. But if a friend gives me an important message to deliver, or if I have promised to finish and turn over some work for use this morning, my feeling of responsibility is a particular emotion, and is then more naturally called a feeling of obligation. It is between these two extremes of mood and emotion that the moral pendulum swings, and it is important to note what distinguishes them.

In the examples first cited, accompanying responsibility is a proud sense of free performance. The actors un-

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doubtedly feel that they are answerable for what they do. But most prominent is the feeling of full and free action. Each actor feels that what is done is decided on and performed by himself. In the last two examples, on the other hand, the ratio of the feelings of freedom and of constraint is inverted. I *must* deliver the message or hand in the work, as the case may be. No doubt the "I must" is imposed by me on myself, and the act is freely performed, and yet the "must" is most prominently, it may be oppressively, felt. When responsibility is a mood the feeling of free performance is in the foreground, the feeling of constraint in the background; when responsibility is felt to some one and for a definite action, when it is the particular emotion of obligation, the inverse distribution of freedom and constraint obtains.

Now it is plain to see that both responsibility-obligation and free performance are essential components of conscience when the agent's actions are in question. Let the monarch, or any trustee, go on a hunting and fishing trip, accompanied only by an intimate friend, and with the falling away of the weight of obligation and responsibility conscience disappears — when the relief is great, he may disport himself like a truant schoolboy. And at the other extreme, let the person to whom the work is due be powerful and tyrannically exacting, and one feels one's self an irresponsible tool enacting the behests of another will — the work is his, not mine, and I wash my hands of the consequences.

Sometimes emotions give as true a sense of our situation as ideas can, and, if the moral emotions considered have been properly interpreted, they teach an impressive lesson. For they indicate that conscience counsels to actions with a double weight of authority. In responsibility, obligation, and free performance, we have the sense of others present who are demanding action or abstinence, and, added thereto and fused therewith, the sense of our

own spontaneous indorsement of the demand; or else it is the sense of our demand and their indorsement. According to this interpretation, conscience voices the common will in so far at least as the individual has taken it up within himself. The study of the rise of conscience in the individual and the race will confirm this suggestion.

The three emotions just considered embody the naked power of conscience. Generally they are assisted by other moral as well as by non-moral feelings. Respect for property and regard for reputation deter from stealing; reverence for family and love of relatives impel to domestic kindness. But, whether with or without assistance, these three feelings are always present when duty is discerned, and at times of moral crisis all depends on them alone. "If adversity and hopeless sorrow have completely taken away the relish for life; if the unfortunate one, strong in mind, indignant at his fate rather than despondingor dejected, wishes for death, and yet preserves his life without loving it," then, using Kant's example but only part of his conclusion, in preserving his life he is solely impelled by the sense that he is responsible for it, and in duty bound to protect rather than attack it. In men whose moral nature is strong at all points, and prepared for any assault, habit has intimately associated responsibility and its two aids with effort; when a duty appears these men are ready to put forth whatever effort is needed to perform it. On the other hand, in men who make but intermittent effort to fulfil felt obligation, the connection of habit is not formed, and at critical moments conscience is weak.

Approval and Disapproval. — We turn now to the emotional components of conscience associated with intellect rather than with will. They are called approval and disapproval by some writers, and approbation and disapprobation by others. But whatever their names, they are signals to the individual that he is in presence

of a right or wrong action, as the case may be. When an apprehended action awakens the feeling of approval, it also incites an impulse to pronounce the words, "That is right," "You ought to do it," or some equivalent. Here again, in strong moral natures, the feelings of approval and disapproval are linked by habit with the feeling of obligation, etc., as these in turn are with effort sufficiently strong to insure the performance of duty in the premises; while in weak natures the first-named feelings may be but luxurious emotions, leading possibly to discussion and self-righteous censure of others, or to morbid introspection.

As to the feelings of approval and disapproval themselves, little need be said. In assessing actions generally either one or the other is present; but in exceptional cases both may be conflictingly present, some aspects of an action arousing approval, others an approximately equal measure of disapproval. A young man who wounds a police officer in resisting his father's arrest is approved as a son and condemned as a citizen.

Very much the most important characteristic of approval and disapproval is their felt objectivity. However mistaken my approval may be, it does not *feel* like my mere subjective view, but carries with it the sense that others, at least those who are competent and know the facts, must certainly agree with me. It is this felt objectivity that differences these feelings from liking and dislike. One friend prefers tennis and another boating, and neither thinks the other is in error, for one's likes and desires are one's own, and it is foolish to dispute about them. But let the first believe in total abstinence, and he does not look on his friend's belief in liberal temperance as merely a different view. He believes it is mistaken, and is convinced that, if his friend realizingly knew the effect of drinking on himself and of his example on others, he would see the mistake. The liberal tendency, now

pushed so far, to let every man follow his own conscience without interference, must not be construed as indicating that men's approvals and disapprovals do not seem to them objective. However strongly convinced a man may be that another is doing wrong, his conviction may be equally strong that he is not the one to interfere. Again, approval and disapproval, like other forms of belief, vary in strength. In proportion as an action has a man's approval he believes it is right, and when it has his *full* unquestioning approval he "knows" it is right. No more is maintained, and this can be expressed in a sentence: Approval and disapproval correspond, in the field of right and wrong, to belief and disbelief, in the field of fact.

It will be seen at a word that the feelings of approval and disapproval agree with responsibility, obligation, and free performance in bearing witness to the accord of self and others. In embodying the individual's view, together with his sense that others agree with it, these feelings claim to voice the common judgment, and, it may be, betray their origin in similar feelings aroused in the individual (or in his ancestors) by situations where all present, including himself, put the same estimate on the actions under discussion at the time. A tribe unanimously condemning a member for actions he has often condemned in others, is an instance in point.

Lesser Moral Emotions. — The central emotions of conscience have now been passed in review, and a word remains to be said on its more occasional components. In mentioning these no attempt will be made to distinguish them from non-moral emotions that often assist to virtuous action, for to do so would be both difficult and unnecessary; the distinction is too often merely one of degree. A few samples will sufficiently indicate what these emotions are, and some of them will be further discussed in the following chapter. What emotions are felt naturally depends on what actions arouse them. One's own actions and pro-

spective actions arouse, among others, self-respect and self-righteousness, remorse and self-contempt, determination, resoluteness, and enthusiasm. When we view the actions of others we feel respect, trust, loyalty, reverence, and awe, or contempt, distrust, superiority, indignation, resentment, etc. When considering kinds of action that any one may perform, the emotions accompanying the judicial and executive attitudes are likely to appear, such as impartiality, poise, sternness, well-considered even when hearty commendation, responsible condemnation, and others like them. Again, particular kinds of action arouse their appropriate emotions. We feel very differently towards dishonesty and unkindness, injustice and intemperance, cunning theft and brutal murder, though all these feelings are alike in the assistance they give the naked sense of duty. Most important, finally, are the strong interests, in self, in others, and in quasi-persons, discussed in the last chapter. When in conformity with conscience, and fused with it, they are the love which, as Paul says, is the fulfilment of law, that morality of the heart or moral inwardness that was first definitely recognized with our era, and is transforming the world. Ethically these feelings are known as benevolence, and under that title a chapter will be devoted to them in Part II.[1]

§ 3. Conscience as Intellect

Moral Categories. — It is because of the universal element in it that an action is right or wrong. No action, whether perceived or conceived, ever awakens approval or disapproval merely as this action, but always as this *kind* of action; its quality is decisive. If we perceive a man in a distant field doing something, we cannot tell whether the act is right or wrong; we must know further *what* he is doing, whether stabbing a man or cutting down a scarecrow. But to know that is to know the kind of action he

[1] On this whole section cf. Dewey, *op. cit.*, LXII.

is performing, to have a conception of it, to know the class to which it belongs. And the reason for this is plain. The nature of generalization prevents particular actions from being *known* as causes, indeed from being known at all. Only kinds or classes of actions can be known as beneficial and injurious. Man's conscience is aroused only in so far as he classifies the actions he considers under conceptions, and indeed under moral conceptions. In the example given, the first glance shows a man slashing; if he is killing, conscience appears; if he is not acting in self-defence, but murdering, it condemns him. Now this shows that conscience as emotion waits on conscience as intellect. First, conscience sends out its light troops, the ideas, for reconnoissance, and then, depending on whether they report foe, friend, or false alarm, the heavy artillery of emotion is brought into action for attack or support, or else is ordered back to quarters. All depends on the reliability of the report. The difficulty with the drunkard, as Professor James somewhere says is, that when tempted to drink, he persists in misconceiving the act; it is being sociable, or testing the strength of his resolve, or helping his friend the saloon-keeper who has done him favours, or bracing himself to quit forever — it is anything except *the* thing, *being a drunkard*. Were he steadily so to conceive the act, the moral emotions would come into play, and carry him safely past the too seductive door. Actions must be faced frankly, and conceived fairly, if morality is not to be poisoned at its source; for, as Socrates taught, the worst form of lying is self-deception.

Accordingly the intellectual elements of conscience, the moral conceptions and categories, are ideas that awaken the emotions discussed in the last section. The distinction between moral conceptions and moral categories calls for a word. Dancing and drinking are moral conceptions, elements of conscience to some, to those namely who disapprove the two kinds of actions. But they are not

moral categories, because many consider them harmless when moderate and seemly, and not matters of conscience at all. But actions conceived as honest, truthful, or patriotic on the one hand, or as cruel, unjust, or ungrateful on the other, awaken in all men, the first approval, and the second disapproval. Moral categories, then, are conceptions of classes of actions that the common sense of mankind approves and disapproves. They can readily be found by ordinary observation, and will now be suggested: Part II will be chiefly given over to their discussion.

Moral actions may be classed either from the point of view of right and wrong, or from that of duty or obligation. The difference is based on the nature of moral phenomena. These, as has been shown, are actions, but, as will be shown, only actions affecting persons and quasi-persons. The latter point, not yet established, will be taken up in the next and following chapters, and meantime probably will cause no difficulty. Land and metals, for instance, cannot be wrongly treated or used, but property and tools or weapons can. Accordingly moral phenomena may be subdivided on the basis of differences among actions, the persons affected being unemphasized, when actions are viewed as right and wrong; or, the differences among actions being passed over, the classification of those affected may be extended to the actions, which are then conceived as duties to these, those, and the other persons or quasi-persons. The distinction is otherwise stated as that between the right and the good, and in that form is coeval with language. Right is etymologically related to the Latin *rectus*, "straight" or "according to rule," whose Greek equivalent δίκαιος is connected with the root *dic*, to point or direct, and so to command authoritatively or with approval. A man who follows right is straight or upright; he is ruled by principles. Good, on the other hand, is connected with *gut* in German, ἀγαθος in Greek, and the root *gath*, serviceable or valuable

for or to an end. A good knife is good *for* cutting, and there the word has no moral meaning. A good man is good in some relationship or *to* some one; he is a good friend, father, citizen, etc.[1] He performs the duties owed to persons and institutions, and the categories of duty are as many as the classes of persons and quasi-persons to whom, by common consent, they are owed. This gives civic duties, family duties, duties of friendship, etc. It would be profitable to discuss scientifically these categories and those of right and wrong, but it is more convenient to reserve the discussion till later, and nothing would be gained by further enumeration here. It is more important to understand the categories, and to know how to find them. Honest and truthful actions have been mentioned as right, and their opposites as wrong, and others will readily suggest themselves. It will be noted that they are right without respect to the persons affected, that they are categorically imperative. Most important among right actions are those inspired by the cardinal virtues. As Part II will hold, a man who acts bravely, temperately, justly, benevolently, and wisely, does *all* that morality requires; duties and right actions otherwise named are but specifications of these.

We also have ideas or conceptions of the elements of conscience, and the most important of these, such as responsibility, obligation, self-respect, etc., constitute a third group of moral categories. And it goes without saying that agents are named from their actions, thus giving rise to influential categories. One who murders is a murderer, one who steals, a thief, one who fails in duty from fear, a coward, etc. From their personal appeal these categories are especially dynamic; even though a man be willing to deceive occasionally, he is unwilling to be a liar.

[1] Cf. Muirhead, *El. of Eth.*, § 26. Surely he is mistaken in associating duty and obligation with right and not with good.

Moral Judgment and Reason.—In form moral judgment and reasoning are the same as theoretical judgment and reasoning; the difference is only in subject-matter. A moral judgment is a conviction that some action belongs or does not belong under some moral conception; and moral reasoning is merely reasoning on moral subjects, that is about moral situations and in terms of moral conceptions. Accordingly, like all other reasoning, it may be good or bad, and, moreover, it may be felt to be sound or to be doubtful. If we are convinced of its soundness, if all doubt concerning it is absent, we have the sense here, in no wise different from what we have in other reasoning, that the conclusion is something more than our mere private opinion; we believe it to be in conformity with truth, and feel that all who are competent and sufficiently informed would agree with us. Of course the facts about which we reason are actions vouched for as right and wrong by feelings of approval and disapproval.

But there is also a moral employment of judgment and reasoning, which is better called conscientious judgment and reasoning, as it consists in the conscientious use of intelligence, in using it as alertly, broadly, impartially, and wisely as we can. When conscience, or the sense of responsibility, is present throughout, and when the agent is habitually so guided in his practical reasoning, he is conscientious in the true sense of the word. In Professor Dewey's words, this involves "a greater and wider recognition of obligation in general, and a larger and more stable emotional response to everything that presents itself as duty, as well as the habit of deliberate consideration of the moral situation and of the acts demanded by it." Conscientiousness, therefore, is neither an element of conscience, nor a particular grouping of elements; it is merely a mode of its use, and is evidently a highly important form of activity. The discussion of its character and rank among moral habits properly falls in Part II,

and it is mentioned here solely to prevent its being confused with moral reasoning, with reasoning in which moral ideas are used.

In sum, then, moral conceptions and categories are the only intellectual elements of conscience.

§ 4. The Moral Ideal

During the last two sections the corpse of conscience has lain on the table while the dissecting knife was separating and exposing its component parts to view, and no doubt the proceedings have been ghastly enough, and, possibly, offensive to moral sensibilities. Happily that task is now completed, and we can look on conscience as the organized, living unity that it is. So considered it is known as the moral ideal. First ideals will be discussed in general terms, and later, on the basis of that discussion, the moral ideal will be characterized.

An ideal may be defined as a schematic dynamic system of ideas of action. Let us translate this definition into more popular language, and unfold the meaning it contains. The adjectives will occasion little difficulty. Among the characteristics of ideals, two are most familiar; if they are genuine ideals, they are at once influential over conduct, impelling us to attempt their own realization, and beyond our reach, as we can neither completely comprehend their rich fulness of purpose, nor satisfactorily realize so much as we succeed in comprehending; ideals are dynamic and schematic. The former character istic is shared with all other psychic states, and is already understood; the latter is peculiar to ideals.

Schematic Character. — The schematic character of ideals is born of the contrast between what they are and what they stand for. They are like French laws, the barest skeletons of requirements that are afterwards enriched with detail as administrators apply them to one concrete case after another. A boy can specify but few items in

his ideal of dutiful sonship, compared with the many acts of service, compliance, blind trust, and loyal defence it prompts him to perform as occasions separately arise, and fewer still compared with the unlimited improvement in manner and spirit, and the innumerable opportunities for other befitting actions taught him in novel situations by the measure of realization he has at any time achieved. Or take the simpler case of writing an essay. The purpose does not seem complex, merely to write an essay on a set subject. And very probably one is not aware that ideals are in the least involved. But one cannot make gross false statements and omissions, or get all the facts from one authority, or throw the facts together without any system, or write in barbarous style, or misspell in every sentence. And all this means making observations, consulting others, going to a library, looking up a catalogue and seeing the librarian, taking down, reading, and thinking over books, and still more books to understand the first, and reference books too, encyclopædias, dictionaries, etc. The ideal dominates at every turn, and yet no one is fully satisfied with his essay when completed, or with any other performance; the next, he determines, shall be better.

The fact is, that the boy has before his mind the model son (not in the "goody-goody" sense, but his real model), and the essay-writer the means and resources that would be employed by the model essayist. It is these exemplars that each is impelled to follow, and who, as conceived, constitute their ideals. This suggests an explanation of the schematic character of ideals from a second point of view. For the man whose example inspires us is, as we feel, more adept, deeper than we are in some direction. We admire and respect him, and would do as he does, but we can neither fully understand him nor foretell what he would do, and our doing inevitably falls short of his. And herewith the third characteristic of ideals appears.

Ideas of Agents. — Ideals, probably all of them, but at any rate practical ideals, are ideas of agents in action. In the definition they were for brevity merely said to be "ideas of actions." But actions are voluntary performances, and to be conceived as such, they must be conceived as performed by agents; that is of their essence. In the present connection then, an ideal is an epitomized biography of an exemplar, or a composite biography of many exemplars acting in some particular capacity. One's family ideal is a panoramic series of pictures representing the model son, brother, husband, father, etc., as they conduct themselves in various situations; one's political ideal, similar representations of the model citizen, candidate, official, etc.; one's industrial ideal, of the model man in the various callings, and so with the rest. This description must not be interpreted as meaning that the whole of an ideal is present at once, except in the barest outline; and yet, as will presently appear, each ideal is, in an important sense, an organized system, all of whose parts act in unity.

Organic Character. — For, in calling the ideas of actions an organized system, the definition means that they are associated to a greater or less extent, and influential in greater or less degree. Organization is, of course, more or less perfect. If a man's foot is injured, his hand comes to the rescue; if the root of a tree is cut, its limbs do not attempt defence. Yet the tree also is organic. Similarly some men's consciences follow the vegetable, others the human model. Considerations that are germain to a man of broad outlook fail to occur to another whose ideal is but loosely interconnected. In some the different subdivisions of conscience are all but insulated, the religious ideal being imprisoned within sundays, the political ideal being powerless against friends, the scholarly and theological ideals being guiltless of trespass on each other's domain, etc. Such men live two lives or more, nearly as

distinct, if not as opposed, as those portrayed in *Dr. Jekyll and Mr. Hyde*. Nearly as distinct, but not quite. For situations are sure to arise which call the different subdivisions out at once, and if this occurs at all frequently, they must become associated, and reconciled after some fashion, unless we ourselves prevent it.

And at the other extreme stand men who bring into play the whole machinery of the moral ideal to decide every question, however simple, or at least, who approximate closely to that imaginary extreme. Each trifling problem must be looked at in all its moral bearings. In each of its bearings it is agonized over, and, if a decision is finally reached and action follows, the whole travail is gone through with again, to make sure that no mistake was made and no aspect overlooked. And when mistakes and omissions are found, as is inevitable, a fresh access of agonizing supervenes.

All the ideal, then, is present in very much the same sense that all the law is present in the decision of a judge. Although he considers only the laws and decisions that might conceivably be pertinent to the case at bar, and mentions, in his opinion, only those he thinks are in fact pertinent, yet he knows, or can find, all the laws and decisions without exception. Most of those that are not considered are not pertinent, and the failure to consider any that is in point must be considered to be due, either to incompetence, to carelessness, or to deliberate partiality. Thus the whole of an ideal is not present as content of consciousness, but functionally it is present, in the sense that any part of it is ready to appear whenever association is brought into play.

Moral Ideals. — What precedes has been written of practical ideals in general, but many illustrations have been taken from the moral ideal, and little more need be added. It will be remembered that the moral conceptions are those that awaken the moral emotions, and

it is again these emotions that difference the moral ideal from other practical ideals. The moral ideal is the dynamic, schematic system of such ideas of action as awaken approval or disapproval, responsibility, obligation, and the sense of free performance. Moreover, since morality is concerned with all voluntary actions, one's moral ideal should picture the model actors in all the fields of human activity, — in the family, the Church, the State, in business, in behaviour, etc. But the ideas of action are conceptions not categories, and moral ideals differ widely. The model family man is pictured very differently in the English, French, German, and other national ideals; and in general, owing to differences in inheritance and surroundings, the model of virtue in any field varies widely in different races, and in different individuals belonging to the same race. But the difference among moral ideals must not be allowed to obscure the fact that they seem objective to those they inspire, just as each one of their component conceptions does. However other ideals may differ from ours, to us the others seem mistaken and ours seem true.

Only when conceived as the moral ideal, with its dynamic, schematic, and organic characteristics, is conscience properly conceived. To identify it with obligation, remorse, or any other component, however awe-inspiring, is like identifying a railroad system with the brakes on its cars.

CHAPTER VI

The Psychic Cause of Conscience

§ 1. Voluntary Action as Cause

In asking for the psychic cause of conscience, we are asking what a man must be conscious of in order that his conscience shall be aroused, *i.e.* what mental states have the dynamic efficiency necessary to arouse it. This problem is important, for it is the first step of the inquiry into the genesis and development of conscience in the child of to-day and in the human race, and the solutions of these problems throw important light on the central ethical questions as to the nature of and difference between right and wrong.

Man's remarkable sensitiveness to everything that indicates the degree to which his actions and those of his fellows are performed with full volition has already been discussed at length in Chapter II. Wherever an action is non-voluntary, conscience, however aroused, denies its jurisdiction; and in proportion as external hindrance, or inner bent for which the individual is not responsible, interferes with foresight, or trammels free self-expression, in that proportion does conscience temper its claim. It remains to mention the logical significance of these facts, which constitute the concomitant variation of voluntary action and conscience; when two phenomena thus vary together, the evidence of their causal relation is peculiarly strong. No doubt when voluntary actions are not attended to, or if, when attended to, they are not distinctly appre-

hended as voluntary actions, conscience fails to be aroused. But this only indicates what, from the nature of the case, is plain, that only apprehended actions, not actions as objective facts, can be regarded as the psychic cause of conscience. Only psychic facts can be psychic causes.

But, as was seen in Chapter II, the fact that an action is voluntary is not sufficient to enable it to arouse conscience, and therefore voluntary action is not the whole of the cause of conscience. While no phenomena except voluntary actions awaken conscience, some of these (as stated in Chapter II, those "handed over to the direction of individual interest, preference, and caprice") fail to do so. It is accordingly necessary to discover the additional qualities characteristic of the actions that awaken conscience, and distinguish them from ordinary voluntary actions that do not. An examination of the latter will conveniently guide us in the search for the needed characteristics.

Though an anticipation, it is well to prevent misunderstanding by insisting that no action viewed in the full reach of its consequences is morally indifferent, even though it should not awaken conscience. When actions are so viewed, Mr. Muirhead[1] is right: morality "is not 'three-fourths of life,' as Matthew Arnold said of it, or any other vulgar fraction of it, but the whole of life." Yet, consideration being had of man's limited time and energy, of his capacity to tangle himself in casuistry, and of the necessity of having some things settled, it is equally evident that it is morally inexpedient to decide all actions conscientiously, and in fact no such attempt is made. For the actions directly supervised by conscience Matthew Arnold's estimate is rather too liberal, but a very large estimate results, if it is remembered how many actions are indirectly supervised, following resolutions that have been conscientiously formed.

[1] *Elements of Ethics*, § 15.

§ 2. Voluntary Actions that do not arouse Conscience

Caprice. — Caprice decides many voluntary actions, actions whose results are foreseen and consented to. In no one except the Puritan and the dandy does conscience prescribe the cut of clothes, the colour of hat or tie, or the changing topic of social conversation. Much of the charm of "society," and of the women who rule there, depends on happy caprice. Indeed, in society caprice exercises constitutional sovereignty, within the generous limits set by good manners, for anything that indicates individuality is highly valued. Men and women who not only say but do the unexpected are most welcome there, commonplace dulness being the great crime, and if any one is original or merely different, — witness the lionizing of very ordinary strangers, — much will be forgiven him. The statement may be ventured that the proper function of social intercourse is to set free the largest amount of individual caprice. This explains the strict barriers that are set up to shut out the uncongenial, whose presence must bring constraint. Society is the place of relaxation where all strenuousness is laid aside, for gentlefolk are too sure of themselves to mind their manners, and business is out of place there. Free, easy play of every faculty, congenial occupation, bright talk, apt reply, happy rejoinder, and all flows smoothly at no cost of pains. At least this describes *good* society, a very wholesome thing, which all societies take as their model, and try to reproduce. Some, preposterously enough, make the attempt a serious business, which is the surest way of keeping out of good society. In this field the freest pleasure of the greatest number of its members is the end, and good manners but lay down the rules restraining the individual from diminishing the pleasure of others, and calling upon him to make his due contribution. To be sure the decision as to when and where caprice shall rule may not be capriciously decided.

The boundaries of the field of caprice are roughly sketched by conscience, prudence, and preference; but within the boundaries caprice is properly supreme, and the heart of its mystery cannot be plucked out by books on etiquette. While there are other fields for caprice, society is the broadest, and that which most readily yields evidence in point.

Preference. — Caprice is the voice of the moment, preference, a more lasting inclination, the representative of a more permanent individuality. The Germanic peoples, especially the Anglo-Saxon race, have made much of preference, and to this their maintenance of sturdy manhood is largely due. Not the ruling class alone but every man has exacted respect for his preferences as such, an attitude mirrored in the Common Law's defence of individual rights. In theory, and to a great extent in practice, individual preference has, omitting lesser matters, located homes, chosen life callings, and selected wives and husbands. The romantic family, appearing first in the age of chivalry, is founded on the assumption that trustworthy signs of permanent preference are the best guaranty of a happy marriage. While caprice has been deprecated, prudence and conscience have been allowed only a general supervision. Indeed, their intrusion, certainly that of the former, has been viewed with a degree of suspicion. For the Anglo-Saxon has intuitively felt that a man relishes the good and bears more patiently the bad consequences of what he has brought upon himself. And while insistence on preference is especially characteristic of the Anglo-Saxon, in no man, not even in a Pharisee or in the humblest Russian serf, is it wholly disregarded.

Prudence. — Prudence is organized and intellectualized preference, that takes into consideration all the preferences and interests of the individual throughout life, and seeks so to harmonize them as best to minister to his welfare. Preference and caprice do not take so broad and systematic

a view, and accordingly when followed they not infrequently lead to imprudence. When prudence steps in, decision ceases to be merely a matter of liking and inclination, and becomes instead a matter of judgment and wisdom. For there are certain courses of action that all look upon as foolish and imprudent, and others that all look upon as wise and prudent. For instance, among the objects it is thought prudent to seek in due measure may be mentioned pleasure, health, wealth, professional ability, reputation, and independence. This list is not intended to be exhaustive, as the subject cannot be discussed at all fully till we come to Chapter XV, but is set down merely to give an idea of what is meant by prudence.

Nor can it be denied, either that prudential actions are voluntary, or that they are not conscientious. The larger part of each man's foresight and decision is employed in doing the work of his profession or other business calling, and in protecting and fostering the other personal interests listed above. And here again, while conscience at least roughly determines when a man has a right to insist on his "rights," yet the actual process of defending them is as evidently non-conscientious as it is wide-awake and voluntary.

§ 3. Conduct the Cause of Conscience

The last section has shown that an easy majority of man's actions are performed capriciously, or in accordance with preference, or the dictates of prudence. Although fully voluntary they do not awaken conscience. By noting what is absent in all these cases, it will be possible to discover what must be present in an apprehended action in order that it should arouse conscience. In none of them, as we readily observe, are the effects on any one other than the agent at all considered. In caprice there is a surrender to impulse, without regard for consequences either to self or to others. In following preference there is a consideration of likes and dislikes, of what one would

enjoy and what one would not, but again no thought of consequences either to self or to others. In following prudence there is exclusive consideration of the effects of the action on the agent's interests. In all this no thought of others. It is not unnatural then to suppose that conscience will appear when, for any cause, foresight is so broadened as to take into sympathetic consideration the interests of others.

The testimony of many ethical authorities supports the supposition. For they assert that morality contains as an essential element a sensitiveness to the rights of others, in other words, that essential for the arousal of their consciences is the apprehension that the action affects the interests of others. The golden rule, regarded by many as the best compact statement of what morality demands, considers such actions only; the same is true of nine out of the ten commandments, and even more intimately true of the first and great commandment and the second like unto it. So important for morality is the relation of the agent to others affected by his actions, that good authorities have declared altruism to be the alpha and omega of morality. Coming to the sharper statements of contemporary writers: "Briefly," says Mr. Leslie Stephen, "it is admitted that, in some sense or other, morality *implies* action for the good of others." "The feeling of sympathy," according to Professor J. M. Baldwin, "is one of the elements whose satisfaction moral satisfaction as a whole *must* include." In the words of Mr. Alexander, "Sympathy of persons with one another [is] undoubtedly at the basis of *all* morality." (Italics in the quotations mine.)[1]

[1] The point is not that actions that do not affect others are not moral phenomena, and if the authors quoted so maintained, an improbable interpretation, they would have to be dissented from. In § 1 it was said that all actions are moral phenomena, and in § 2 that conscience supervises prudence, preference, and caprice. The point is, that only actions affecting others arouse conscience.

But it is not necessary to place exclusive reliance on the opinions of authorities. The facts upon which these opinions are based are also at hand. It is actions that do not vitally and evidently affect others that are decided by caprice, preference, and prudence. But let the agent, or Adam Smith's impartial spectator, become aware that the action has damaged others, and conscience appears. Those well endowed with wit often throw their shafts regardlessly; but let the merry jester realize that one has inflicted a serious wound, and his conscience is likely to appear and trouble him. The head of a family, fond of outdoor life, may reside in the country untroubled, until he comes to appreciate the inadequate educational advantages offered his children. Men careless of health and substance not infrequently in later years bitterly repent the loss of capacity which disables them from helping others. A mother careless of her reputation in earlier years suffers remorse when this imprudence is visited upon her daughter. A son who is careless of the effects of dissipation on himself, will find his conscience troubling him when he comes to realize that he is bringing want to his parents. Nor is this confined to retrospect. The prospect of injury to others resulting from deed or neglect arouses in the agent a sense of obligation to refrain from or perform the action, as the case may be. When sympathetic imagination comes into readier play, the witticism remains unuttered, the country residence is abandoned, health, wealth, and reputation are duly cared for, and dissipation is foregone, or at least conscience will appear and demand such conduct. In short, as soon as actions are seen to affect others in interests regarded as vital, conscience appears to supervise caprice, preference, or prudence.

It is of course evident that the interests affected must be regarded as vital, or at least serious, and it is further evident that no sharp line can be drawn setting off these

interests from the others that any man regards as trivial. This no doubt makes the theory less sharp than one might wish. But blame must be laid on the facts, not on the theory; were it more distinct than they, it would in so far be inaccurate.

For the sake of convenience and brevity a name may be suggested to designate the kind of action just described. Usage offers the term "conduct," which may accordingly be defined as apprehended voluntary action that the apprehending subject views as affecting others in interests he considers vital. And our result may be put down in the statement: Conduct is the psychic cause of conscience. Further confirmation of this theory will appear in the chapter on the race origin of conscience; for it will there be held that only actions affecting a very large number, indeed only those affecting practically the whole of a community, can give birth to the complicated group of mental states we call conscience.

§ 4. Self-respect and Respect for Calling

It is generally recognized that each man owes duties to himself, and that these duties are by no means the least important. The attitude of conscience towards them will be discussed here, as these duties seem inconsistent at first sight with the results reached in the last section. After duties to self have been discussed, the bearing of the conclusions reached on the problem of the chapter will be considered.

In speaking of duties to ourselves, we naturally say that we owe it to ourselves to do so and so, or that our self-respect demands such and such conduct. The two phrases convey nearly the same meaning, but it will be more convenient to discuss the problem from the latter point of view, *i.e.* as involving an understanding of self-respect.

The feeling of self-respect is aroused in much the same way that the feeling of respect for others is aroused.

A man is not respected — though he may be treated with the forms of respect — because he is rich, or because he is well born, or because he is intelligent, or because he has social standing and social graces, or indeed because of any possessions or natural characteristics of his. He is respected or despised because of the use he makes of his possessions and qualities. Respect is not concerned with what a man has or can do, but only with what a man is and can do with or make of his possessions and qualities. In speaking of self-interest in the chapter before the last, it was pointed out that a man is interested in having certain things, and in being certain things, and it is not the self of having but the self of doing that arouses respect, if respect is aroused at all. Or, in other words, man has outward possessions, he has unreflective or subvoluntary capacities, *i.e.* a body of spontaneous tendencies, and he has will-power and habits of will. It is for the will a man has, for his power of self-control and self-guidance, that he is respected. The sot is not despised because of his thirst for strong drink; the man with an equally strong thirst who controls it earns the more respect for doing so. The man of wealth is not respected for his possessions, but he is respected if, in spite of opportunities and temptations, he has held himself to worthy methods in acquiring wealth, or if, refusing to misuse his wealth, he allows himself to use it in none but worthy ways. Briefly, then, it is only the self as a voluntary agent that is respected, and a voluntary agent is respected only in so far as he is moral. It is because they hold themselves to worthy and difficult actions that we cannot but respect the man with an abnormal thirst for strong drink who controls himself, and the young Frenchman who controlled his homicidal impulse, as mentioned in Chapter II. And in so far as one maintains conscientious self-control, in so far as one lives up to one's standards and principles, self-respect is sure to follow. The

moral ego, whether self or another, is the object of respect, and the more difficult and heroic the morality achieved, the greater the respect.

But two senses in which the term "self-respect" is used often lead to confusion, and will have to be distinguished in order that the facts may be clearly understood. In the first place, self-respect is a certain agreeable feeling or emotion, whose presence is very welcome, and whose absence works a large diminution in the value of life. Now regard for self-respect may merely mean the desire to preserve this agreeable feeling and the desire to escape the discomfort of falling out of conceit with one's self. The man who refuses to be gross, to lie, or to cheat because he cannot do so and maintain any opinion of himself, and because to have an unfavourable opinion of himself is to be ill at ease and uncomfortable, that man in so far does not really respect himself, but merely desires to feel respect for himself.

Genuine self-respect, on the other hand, is respect for what one as a moral agent really is, and concern that one's moral insight and power shall not deteriorate. The man of genuine self-respect knows that any unworthy action weakens the moral self and leaves a stain upon it, and he cannot bring himself to act unworthily, not primarily because he desires to be on good terms with himself, but because he is determined that he at least shall not stain or mar this self, which is most precious to him, and for which he before all others is responsible. And from this analysis it is easy to see why genuine and strong self-respect is the most powerful and effective force making for morality. It is an inner and constant guardian of morality that can be neither evaded nor deceived.[1]

And conscience is undoubtedly aroused when a contem-

[1] Cf. the discussion of volition as the essential difference between man and other animals, Ch. VIII, § 2, and the discussion of perfection, Ch. XV § 1.

plated action threatens to take from the agent's moral power and quality, and remorse, the most poignant remorse, follows when the agent realizes that he has injured the vital essence of his manhood. But observe that it is not injury to the self of prudence that arouses conscience; a man may through mistakes and blunders lose his fortune or lose his skill, and yet be easy in conscience. It is only injury to the moral self that arouses conscience. Now the conclusions reached in the last section may be retained unmodified by saying that a man objectifies his moral self and looks upon it as an *alter ego*, and moreover that his moral self is really the representative of the interests of others, and therefore that in protecting the moral self conscience protects an *alter* and indirectly protects the interests of fellow-men. But a simpler course is to define conduct as action that is apprehended by the agent as vitally affecting other persons, quasi-persons, or his own moral self. Then conduct is still the cause of conscience and there is no confusion.

Conscientious interest in professional work is an instructive instance of moral activity that calls for a few words here. This conscientious interest is due partly to the fact that every man has standards of excellence in his work, and that self-respect calls upon him not to disregard or lower his standards, and partly to the fact that the work growing under one's hand takes on many of the characteristics of quasi-persons. In the first place, the energy a man puts into his work is all but certain to awaken vital interest in its proper performance, which is measured by ever improving standards as he increases in skill. Indeed, the danger often lies in the direction of undue absorption in one's calling, to the neglect of human interests nearer home. Of this the scientist, absorbed in his cold intellectual occupation, was at one time the favourite example. But any man of ambition and strong sense that there is a right way to do what has to be done at any time, for

instance the best type of American business man, will serve as well. The work of such a man puts him under constant obligation to put forth all his energies at their best. And in the second place, the duty a man owes to his work is brought very vividly to mind in proportion as intelligent purpose is embodied in it. The craftsmen of the days before the invention of machinery were greatly stimulated to conscientiousness in their work by the fact that they watched it grow from the first step to the last, and that it came to take on for them life of its own. In this respect their advantage over the piece-workers of to-day is very great. But there are many men to-day, among them the managers of large business enterprises, and most workers in intellectual fields, who still have this stimulus to conscientious work; and many respond nobly to the obligation. For under the circumstances described the feeling is nothing less than a sense of obligation. The appearance of conscience is due partly to the fact that the moral self is involved, and partly to the fact that one's work often assumes the form of a quasi-person.

§ 5. Applications of the Theory

The conclusions reached bring out some interesting characteristics of the workings of conscience. For conscience, as we have seen, is not only aroused by proposed conduct, but is itself an organic group of schemes of conduct, which may stand towards that proposed in a number of different relations. As situations and the nature of men suggest lines of conduct, conscience appears, either to encourage, to correct or overrule, to decide among conflicting schemes, or to substitute one of its own, according as the facts, present and prospective, seem to demand. Of course conscience is, from the nature of the case, more distinct, when it stands over conduct to veto separate items or the whole, to urge its substitute, or to make its choice among the rival alternatives that cause hesitation. When it approves a

man's undivided inclination, conscience combines with it, and is likely to be overlooked in the combination. But it is present none the less, as the satisfying, full-orbed power of such actions sufficiently attests. To hold otherwise would be to hold that virtuous actions are unconscientious, and cannot therefore be distinguished from actions that are moral merely in form — a position as unsatisfactory as untrue. In fact, conscience finds its completest analogue in the parent who is not only wise in guiding his children by timely suggestion, in weighting the righteous scale where decision is difficult, and in restraining them from evil, but is reasonable in furthering their development by according their good impulses free play and hearty support. Conscience may be abreast of inclination-prompted conduct, or it may be ahead of it, suggesting action that safeguards interests inclination was in danger of neglecting.

Again, the view that conduct is the psychic cause of conscience brings it under the dynamic law that every event has an effect, and, what is more important in this connection, under the corollary, that different events have different effects. For not only is the peculiarity of conduct, involving both volition and the sympathetic appreciation of the states of others, paralleled by the uniqueness of conscience, but for every shade and turning of the former there is a sensitively responsive alteration in the latter. The last point has already been touched on in the preceding chapter, where the variations in the moral emotions aroused, depending on the conduct arousing them, was suggested. One's own doings, omissions, and self-indulgences are signally different from all other experiences, and the conscience they arouse is so striking that some authorities think it alone is entitled to the name. If one's actions are past, remorse shades through moral uneasiness into proud self-satisfaction; if they are to be performed at once, or in the future, responsibility, obligation, etc., appear. And while our judgments of the actions

of others, being our own actions, may also rouse these feelings, those actions themselves arouse a different set of emotions, *e.g.* resentment, indignation, disapproval, approval, respect, etc. And finally, although many in this last group of emotions are also aroused when classes of conduct are considered, yet the mood is then likely to be judicial and responsible as well. Vary the conduct apprehended, and conscience presents a various emotional and intellectual equipment.

It is especially important to bear in mind this sensitive covariation in considering the entire emotional aspect of conscience, always thought so mysterious by Ethics. The awe the moral emotions inspire testify to their uniqueness — the commonplace does not impose. But this characteristic of uniqueness, far from being astonishing, is just the one that should be expected in the emotions that conduct arouses. Nothing in the history of man approaches conscious social action in importance, and it would be singular if the emotion it arouses were hardly different from other emotions. It is man the social animal who has conquered the earth and the fulness thereof. But it is not so important for Ethics to note and interpret the singularity of the moral emotions, as to examine them without purturbation, and to seek an explanation for them. And in this encouragement is offered by the large and growing measure of success in explaining other emotions that has been achieved by Darwin, James, Lange, and their followers, whose method offers the greatest promise in the field of the moral emotions. All emotions as brute facts are mysterious; but once specify their excitants and they become amenable to biological explanation. Fear, for instance, is explained as a milder recurrence of the group of sensations experienced by a long line of ancestry during flight from dangerous objects and persons; and successful explanations of other emotions have been given along the same line. The moral emotions have been but

little investigated from this point of view, and of them no specific explanations can as yet be given. But there is reason to believe the same mode of approach will yield equally satisfactory results, and it will be tried in succeeding chapters. Commingle the emotions aroused by impressive persons and assemblies, with those we experienced when playing an impressive part ourselves, and a beginning of explanation is made that further investigation may well bring to a successful issue.[1]

Another gain is the aid towards discovering the origin of conscience in the child and the race. Were its cause an irreducibly simple experience, conscience could only arise all at once as a *lusus naturæ*. But conduct is very far from being that, and is, on the contrary, a fact that must have come to apprehension very gradually, and that even now may be grasped with decidedly varying precision and fulness. The capacity for forming general conceptions must have grown up little by little; the formation of conceptions of voluntary actions must have lagged after that; and finally, during this preparation, and the development of vital interests and sympathetic feelings, conceptions of conduct must gradually have been compacted and built up above the threshold of consciousness. And as it was with the cause so must it have been with the effect, conscience growing *pari passu* with the apprehension of conduct. Even now when conscience is to be developed in a particular direction, to cover conduct so far negligently performed, a favourite means is to call attention to vital effects of that conduct that have been overlooked.

[1] Cf. James, *Pr.* of *Psych.*, Ch. XX, and also Ch. VIII.

CHAPTER VII

Birth and Growth of Conscience in the Child

§ 1. The Problem Stated

The problem of the birth and growth of conscience in the child is one for which Ethics has done practically nothing, and Psychology very little until the last few years. But lately the latter science has in some measure redeemed its neglect, and it is therefore possible to write something on the subject that has scientific value. It should be said, however, that the results are too recent to be thoroughly authenticated, and also that use will not be made of all the results of investigations into the development of children, but only of such results as throw light on ethical problems.

In one sense conscience is not born in the human child, and in another sense it is. At birth the child has no apprehension of right and wrong; indeed, until the end of the second year it will inflict great inconvenience, worriment, and suffering without the slightest qualm, and will witness all kinds of conduct in others without any sign either of approval or condemnation. On the other hand, even then the human child is very different from the young animal. No influences to which the latter can be subjected can develop conscience in it, while all but the most exceptional conditions will at some time more or less distant from birth develop it in the former. Conscience then is inborn in the human child in very much the same sense that spacial perception or counting are inborn in it.

Though none of these forms of reaction are present at birth, the germs out of which they develop are then present. Accordingly the conditions under which the germ of human conscience is incubated and brought to birth, though difficult to observe, can yet be investigated, since they are of post-natal occurrence.

In view of the frequent discussion of the subject, it should be pointed out that the late development of conscience is a tribute to its importance. For it is the rule that the simpler and lower powers develop early, most of them before birth, while the complex higher powers develop late. Of course the lower animals, who have no higher powers, are born nearly full-armed and ready for independent life, and indeed most of them are compelled to stand alone without parental aid. Having only a few simple powers to develop, the pre-natal period is of sufficient duration to allow of their development. But in proportion as animals stand higher in the animal scale, the period of immaturity lengthens and extends beyond birth. For every animal in its growth repeats in summary fashion the evolution of its ancestors, and the longer or rather the more varied the line of its ancestry — all ancestral lines are of equal length — the more there is to repeat, and the longer the time it takes to attain to maturity. In man, the highest animal, there is the greatest variety of stages to recapitulate, and therefore the longest period of post-natal immaturity. Naturally the repetition is in the order of the evolutionary occurrence, and the capacities which, like conscience, are characteristic of the latest and most highly developed ancestry, are developed last.

When conscience was described, it was characterized as a system of ideas of agents in action, and it is from that characterization that the attempt to explain the origin of conscience in the child can most conveniently start. The first question will be, How does the child come to get ideas of agents? and the second, How does he come to

get ideas of moral agents? for conscience is made up of ideas of moral agency. These ideas rest, to be sure, on moral emotions, but it will be found that in tracing the origin of the ideas, the origin of the emotions will also be traced.

In tracing the origin of ideas of agency, it will be necessary to go back a step, and trace the origin of the child's experience of agency. For it is almost, if not quite, as impossible for any one to have an idea of agency without previous experience of agency, as it is for the born blind to have ideas of colours. The problem then really is, How and when does the child experience agency, or become an agent? Much light has recently been thrown on this difficult problem by Professors Royce and Baldwin. Working independently, they reached very much the same conclusions. The conclusions are based on careful thought and investigation, and are the most thorough and reliable that science has as yet reached, and what follows will be based upon them, though departing from them at points to be designated later.

§ 2. The Origin of Agency

Little as is known of the early life of the human child, it is a well-established fact that at birth it is not an agent, *i.e.* it does not perform voluntary actions. Extremely active is the infant, and naïvely full of life during its waking moments, putting forth an ample energy, and learning, partly by the normal ripening of centres, and partly by practice, but wholly without purpose, to do the many things provided for by its inborn reflexes and instincts. But however ample, the child's experience is a confused mass, and however various and apt its movements, it does not know what it is about, and does not act with deliberate intent and purpose. The child may be intently interested in its novel experiences, and especially interested in the movements it finds "its" body, as we

call it, performing. But it does not act intelligently, or with an end in view, and self-consciousness is wholly, one is tempted to say charmingly, absent. Most of its actions undoubtedly benefit the child, but they are not performed in order to get the benefit, but merely because of healthy instincts. At least it is only about the third year that voluntary action begins to appear. How then is its appearance to be explained?

The Three Stages. — In the child's development towards agency three stages may be distinguished, respectively called by Professor Baldwin the projective, the subjective, and the ejective. The meaning of these terms will be developed as the discussion advances. The first step towards agency is the consciousness of the difference between persons and things. But this is not the first difference noticed by children. Probably the first difference noticed is that between moving things and things at rest. Anything that moves — a flapping curtain, the moon through the clouds, the nurse about the room, the caressing hand — at once attracts attention. At first this is by inborn mechanism. But that is soon reënforced by experience, for it is from movements that all pleasures and pains come. Movements relieve hunger and bring the absorbing pleasures of food; they soothe fretting and wakefulness; they mysteriously banish tight clothes, sticking pins, and colic; in a word, they are the infant's providence, from which come all weal and woe. They soon get incorporated into the pain-movement-pleasure series, which is the central fact of the infant's life.

The Projective Stage. — Later, persons come to be selected out from among other moving objects. Persons are different from things and treat the child differently, and it finds its body acting differently towards them, which naturally aids in the discrimination. Again, most of the succouring movements are due to persons, and thus persons are brought into prominence. But Professor

Baldwin's observations show that persons awaken and hold the child's puzzled attention chiefly because of their fascinating incalculability. Things act in accordance with relatively simple laws, especially the things within the experience of the ordinary carefully shielded child. But persons move spontaneously; they have individuality; they have moods and humours and caprices. They "keep the child guessing," and at first it has no guiding thread by means of which it can find its way about the labyrinth of their whims. The child is balked, disappointed, succoured, pleasantly surprised so often by persons that it is difficult to say whether the puzzle is greater than the fascination, or the fascination greater than the puzzle. So the child watches persons, and gets adjusted, surprisingly well-adjusted, to those with whom he is thrown in frequent contact. But so far, as careful observers agree, the child does not understand persons. And the reason is not difficult to find. The child cannot yet act with a reason, for a purpose, with an intelligent intent; and of course it cannot understand those who so act. Even though we act from motives, we fail to understand those whose motives we cannot guess. The practical politician and the reformer never understand each other, and so it is with the egoist and the philanthropist, the musician and the man with no ear for music, etc.; it is not a little amusing to hear the strange and tortuous motives assigned to men who are simply following their natural inclinations. But if men do not understand each other when they do not share each other's motives, how can the child, who does not act from motives at all, be expected to understand those who do?

In Professor Baldwin's terminology this stage is the projective stage, and during it persons are personal projects for the child. "If we regard these objects [persons] as fully presented, *i.e.* as in due relationship to one another in space, projected out and thought of as external, and call

such objects again *projects*, then persons at this stage may be called *personal projects*." [1] Professor Baldwin's point is, that persons are projected outward in space, and differ from other objects so perceived only in being more interesting and more puzzling. This stage is important because it is the deep interest that the child has had aroused in persons that brings him into alert contact with these agents, and, by giving his strong imitative faculty an opportunity to make him similar to them, converts him also into an agent.

The Subjective Stage is initiated by the child's imitative tendency, playing on the "copy" furnished by the agents or persons in whom his chief interest centres. The persons about the child do many things in many ways; and, among other things, they put forth effort to accomplish their ends, they deliberate, they hold themselves in suspense, with the result that sometimes they restrain themselves and sometimes they consent. And all these things the child imitates, the easiest first, and later the more difficult. What he first imitates may be the uttering of words; it may be the drawing of pictures; it may be the attainment of the erect posture. At any rate it will be something simple. But the important thing to note is that the child now first puts forth effort, and experiences its efficacy.[2] He makes the momentous discovery that

[1] *Mental Development*, p. 18.

[2] Professor Baldwin holds that the child's first voluntary actions take the form of persistent imitations, and, since persistent imitations are effortful, the contention is very plausible. But if it be asked further how the child comes effortfully to imitate, the professor's answer is hardly as full as one might desire. At least it is not quite clear to the present writer. After an examination of Professor Baldwin's facts, and of those reported by other investigators, it seems most probable to me that effort is first achieved by imitation of the effort put forth by others. The child is sensitively and imitatively responsive to attitudes and postures of strain and stress in others; his body easily falls into conformity with the bodily states of others. Why not hold, then, that the child finds himself setting up effortful endeavour in imitation of like behaviour in those about

many things can be done by putting forth effort that cannot be done otherwise, and this means that effort becomes his great resource when his desires are difficult of attainment. And another result of equal moment is the child's discovery of the surpassing satisfaction of achievement. He learns what it is to bend his energies to a purpose and to succeed, something that he has never experienced before. And his voluntary actions thus become peculiarly luminous and prophetic to him. His other actions are blind. He finds himself doing something, and finds that some result follows. But his voluntary actions are not blind. They have a reason, a purpose, an intelligible design. Formerly he found himself uttering sounds, and thereupon found others giving him pleasant experiences and attending to his wants. Now he tells his nurse to bring him what he wants, and immediately it is brought. Formerly he found himself copying a drawing with some closeness, and the result was pleasing. Now he undertakes to reproduce the drawing, and a better copy follows. His deeds become luminous and intelligible. Effort is called out by the foreseen result that motives the action, and when the result is attained it furnishes a sufficient reason for the effort. The child can understand trying for such an end.

The Ejective Stage. — And about simultaneous with the subjective stage is the ejective stage. The voluntary deeds of other people also become to some extent luminous to the child. They act so and so because an idea has occurred to them, that moves them to act as they do, and the child understands because the idea would incite him to similar actions. They are acting from this or that motive that has stimulated him also to intentional action. He has experienced agency in himself, and he understands

him? Of course he cannot do so until his centres are ripe for the reactions involved, but neither can he imitatively stand erect till his centres are ripe for that performance.

how others can act as intelligent agents. "The psychological importance of imitation lies largely in the fact that in so far as the child imitates, he gets ideas about the inner meaning or intent of the deeds that he imitates, and so gets acquainted with what he early finds to be the minds of other people. . . . The child that uses scissors, pencil, or other tools after you, learns, as he imitates, what cutting means, and what drawing, or other such doings. And as he learns, he gets presented to his own consciousness contents, which he regards as standing for those of your mind. The experienced interesting outcome of an imitated deed, is for the child the obvious meaning of that deed, to you, as you did it. But he does not get these contents very easily. He gets them by persistently watching you, listening to you, playing with you, trying to be like you, all activities that for him involve muscular sensations, emotional concerns, and still other variations of his common sensibility."[1] In a word, in this the third stage, the child ejects, throws out the inner or psychic parts, the purposive parts of the actions he performs after you, or has performed before you, adds them to your body, which before was merely an object projected into space, and attributes these purposive, psychic parts of the actions to you as contents of your mind.

The results so far can be summed up in a sentence. Fascinated by puzzling agents, the child imitates them, becomes an intelligent agent, and then ejects his sense of agency and purpose, and thus understands his puzzles.

The Various Agents. — But it would be a great mistake at this point to suppose that because the child is a voluntary agent in a few things, in a ridiculously small number of things, therefore he understands all kinds of agents and actions. He has only the scantest ideas of what agents can do and how they go about doing these things. Only the smallest number of ends does he seek voluntarily to

[1] Royce, *Psych. Rev.*, September, 1895.

attain, for he has no idea what to try for. Even mature men but seldom think out the ends they seek to attain; very nearly all their ends are suggested to them. And at the tender age under consideration, the child has not learned to think, and even if he could think out what is worth striving for, he would have no idea of how to go about accomplishing it. Before the child can know much about agents and agency, he must practise being an agent for a long time, and in many and various ways. And he gets the further practice, not out of his inner consciousness, but precisely as he got the first impulsion to begin his career as an agent, namely, by following the example of those who have experience in the matter of agency. Probably the last of the main types of agency that the child learns is the type of moral agency. Before learning that, he learns to be what Professor Baldwin calls an aggressive agent, a submissive agent, and a social agent.

The Aggressive and the Submissive Selves. — The child learns voluntary actions one by one, and understands the voluntary actions of others only in so far as he has performed like actions. And this means that there are some actions of others that he has performed and therefore understands, and some that he has not performed and cannot understand. On the basis of the former is built up the aggressive self, on the basis of the latter, the submissive self.

At first the child does not discriminate moods and occasions. Towards some of his fellows he is always aggressive, *e.g.* towards his little brother or sister; towards others he is always submissive, *e.g.* towards his father or big brother. The former he teaches and leads; he performs the actions and they imitate, he points the way and they follow. He is more of an agent than they are, and he knows and can do many feats of agency that they do not know and cannot do. From the latter he

learns; they lead and he follows. They appeal to him as more finished agents, and by imitating them he learns more and more how to become an agent. In all this the child is, of course, not very different from older people; few of us are so submissive that we do not find some one to dominate, and few are so aggressive as never to be mastered and to know it. "If," says Professor Baldwin, speaking of the child, "the other person involved presents uncertain, ominous, dominating, instructive features, or novel imitative features, then the self is 'subject' over against what is projective. His consciousness is in the learning attitude; he imitates, he serves, he trembles, he is a slave. But on the other hand, there are persons to whom his attitude has a right to be different. He has mastered all their features, he can do himself what they do, he anticipates no new developments in his intercourse with them. . . . This is what the brothers and sisters, notably the younger ones, are to our youthful hero. They are his "ejects"; he knows them by heart, they have no thoughts, they do no deeds, which he could not have read into them by interpretation. So he despises them, practises his superior activities on them, tramples them under foot."[1]

But later the child comes to discriminate moods and occasions. In his fuller intercourse with people, he finds with many of them that sometimes he can dominate and be leader, while sometimes he is dominated and must follow. "Sometimes he tyrannizes over his mother and finds her helpless: at other times he finds her far from submitting to tyranny, and then he takes the rôle of learner and obedient boy."[2] And this new experience of agency the child ejects into others. Being sometimes aggressive and sometimes submissive, he comes to understand that others are sometimes the one and sometimes the other. And he acquires skill in adjusting himself to

[1] *Interpretations*, 7. [2] Baldwin, *op. cit.* 10.

the occasions and situations when those about him are the one or the other.

But as yet, as should be clearly understood, the child is neither egoistic nor altruistic. He does not seek his own advantage, on the one hand, nor the advantage of others, on the other hand. No doubt to superficial observation it seems that the inconsiderate, self-assertive boy is selfish, while the imitative, docile, and obedient boy is unselfish. But the former is rather like the fierce dog, and the latter like the obedient dog. It is as far from true that all submissive conduct advantages others, as it is that all self-confident and aggressive conduct advantages only the self. Each sometimes serves self, sometimes serves others, and sometimes serves both. Besides, and this is more to the point, the child neither reflectively aims at serving self nor at serving others. He has not as yet generalized the idea of himself and his profit, nor the idea of others and their profit. The situation is very much simpler and more spontaneous than any such interpretation would make it appear. The aggressive boy who drives his little brother with string reins has as little thought of serving his own interests as the little brother has of serving his elder's pleasure. Such calculation is foreign to both. They are natural and spontaneous children, without foresight of ulterior advantage in either direction. Their state of mind is rather similar to the quite pagan irresponsibility that is more frequently found among Oriental peoples, the flavour of which is often found in the *Arabian Nights*. To-day the hero is a slave doing his lord's will quite naturally and as a matter of course: to-morrow he is an irresponsible despot himself, quite as naturally and spontaneously ruling his people according to his own caprices. Of course the likeness is not complete, but it is at least true that the Oriental is more frankly and naturally aggressive and servile than the Occidental, and that emphasis will indicate the complete naturalness of the

child in both directions. He imposes his will, or he yields to the will of another; that is all. Ulterior motive he has none.

The Social Self.[1] — A few words about the social self are called for, as it might easily be confused with the moral self, to be described presently. The child is the heir of a social race, and is surrounded by social beings, grouped into various associations. And to some of these associations the child soon finds that he also belongs, *e.g.* to the family, to the school, to the street or neighbourhood where he lives, to his community, to his country. In view of this membership, and partly because of his social inheritance, partly because of his attachment to these bodies, and partly because of the customs of class solidarity common to the members of these associations, the child soon learns to act in social ways and fashions. In each of the groups, members act towards each other in accordance with well-established customs, assisting, obeying, controlling, and acting together when outsiders, who are not members of the group, are present. His older brother protects him from the boys at school; the boy on his street protects him from the butcher boy; and so with the boy from his town when they are away from home during the summer. These and many other modes of social behaviour the boy imitates, and thus he slowly learns that actions may be neither aggressive nor submissive, but coöperative, or at any rate social. And having attained to this experience, once more he ejects it, and thus comes in proper order to understand social behaviour in others. In all this there is as yet no moral action. His little brother, or schoolmate, even his dog may richly deserve a thrashing; but the brother, or schoolmate, or dog is his, and he does not intend that they shall be interfered with. He does not justify himself, or

[1] The account here given of the social self is different from that given by Professor Baldwin, omitting his main points, and incorporating much for which he is not responsible. Cf. *Interpretations*, 14, 15.

ask whether there is any justification. He does not feel or think that his opponent is in error or unjustified. Such questions simply do not arise at this stage. It is natural for the child to act after this social fashion, and so he acts.

§ 3. Birth of the Moral Agent

But while understanding aggressive, submissive, and social action, there is one important field of action that the child does not yet understand. The central fact of personal character, the fact of self-control, is still a mystery to him. His father in wrath, his mother in compliance, his brother in coöperation, he understands, but when those about him forego their desires and practise their aversions, then he is mystified. About the beginning of the third year the child's puzzled condition can easily be observed. He seems to sense something reasonable in the moral conduct of others, but he cannot quite see into their motives. In the words of Professor Baldwin: "He sees the father pained when he has to administer punishment; and hears the words, 'Father does not like to punish his little boy!' He finds his mother reluctantly refusing to give a biscuit when it is her evident desire to give it. He sees those about him doing gay things with heavy hearts, and forcing themselves to be cheerful in the doing of things which are not pleasant. He sees hesitations, conflicts, indecisions, and from the bosom of them all he sees emerge the indications of something beyond the mere individual attitudes of the actor, something which stands towards these higher persons from whom he learns, as the family law, embodied possibly in the father, stands towards him."[1] In short, the essence of the situation is, that his elders are subject to a command or rule in action, and yet that they are freely subject thereto. They hold themselves to some way of acting, they exercise self-control. Acts such as these the child has never performed, and they puzzle him.

[1] *Interpretations*, 22.

That there is a rule, that it is freely followed, what it is in detail, he comes to see only very gradually; indeed, even some distance up into maturity he can see it only most imperfectly. How then does the child come to learn these actions, and to get the light that performing them gives? The answer is, that he learns partly through obedience, and partly through imitation, as will be at once developed.

Obedience. — In the first place, the hard lessons of obedience shake the child out of his spontaneous innocency and teach him another way of acting. Instead of always doing the things that have become natural to him as practised habits that he confidently performs, or else giving way to the fascination of learning the interesting novelties suggested by others, he must "mind" not to do those things, but to do others to which he is impelled by the many influences surrounding the act of obedience. And little by little he does learn to hold in check the actions that, at different times, his aggressive, his submissive, or his social self wants to perform; with the consequence that this obedient self grows strong in various directions at the expense of the other three. And this growth in the habit of obedience is a growth in the power of self-control, and a growth in appreciation of the possibilities of agency. Very plainly a growth in the latter direction, for the child is made to do many things that it would never occur to him to do if left to his own initiative alone, and being made to do them he learns to know the actions through experience, and likewise to know the consequences that flow from the actions. Nor is it difficult to see that every act of obedience is an act of self-control, or at least that every obedient act the child is disinclined to perform is. In the absence of parents and others in authority, the child does many things in obedience to them, and there the case is plain for self-control. But even when parents are present it is but seldom that they enforce actions by physical compulsion; rather it is by authority and "moral"

force that they insure obedience, and then the obeying child must hold himself to the actions against his inclinations. In view of the inculcation of the power of self-control and of a wider appreciation of the possibilities of satisfactory agency, it may be, as Professor Baldwin seems to hold, that obedience alone is competent to build up conscience in the child. For while the child feels obliged to perform the acts commanded, he also in many cases performs them with free inclination, from having learned, through experience, their reasonableness, and the satisfaction they bring in. And these two feelings — compulsion and inclination — are very like those distinguished in obligation: the feeling of pressure from without, and the feeling of inclination from within. But fortunately it is not necessary to decide whether obedience alone would build up conscience, for imitation is a *vera causa* in building up experience of agency in general, and is equally a factor in building up experience of moral agency.

Imitation. — A set of experiences that contributes largely to the establishment of conscience in the child consists of his imitations of others in responsible moods. When any one is in such a mood, his body is in a characteristic attitude and in characteristic movement, his face and eye have a given expression, his voice has a certain ring, and so with the other elements constituting the bodily counterpart of feeling. And of course, owing to his interest in persons, it is to just such bodily happenings as these that the child responds most sensitively in the way of imitation. His body copies, at least in incipient adjustments and tensions, the bodily states of the responsible-feeling other, and the child accordingly gets the other's feelings or emotions. From such imitations, by themselves or in conjunction with acts of obedience, the child probably gets his first inkling of the conscientious mood.

But imitation comes into even greater play in childish

games, and on more serious occasions, when the child plays the part of its elders. At such times the child effortfully strains at being its imitated elders at every point, and sometimes, as in the following situation described by Professor Baldwin, a child voluntarily assumes responsibility or plays the rôle of a child, and so exercises self-control or obeys quite spontaneously, instead of being made to do so: —

"On May 2, I was sitting on the porch alone with the children, . . . aged respectively four and a half and two and a half years. Helen, the elder, told Elizabeth that she was her little baby; that is, Helen became 'mama,' and Elizabeth 'baby.' The younger responded by calling her sister 'mama,' and the play began.

"'You have been asleep, baby. Now it is time to get up,' said mama. Baby rose from the floor, —first falling down in order to rise, — was seized upon by 'mama,' taken to the railing to an imaginary washstand, and her face washed by rubbing. Her articles of clothing were then named in imagination, and put on, one by one, in the most detailed and interesting fashion. During all this, 'mama' kept up a stream of baby talk to her infant: 'Now your stockings, my darling; now your skirt, sweetness — or, no — not yet — your shoes first,' etc. etc. Baby acceded to all the details with more than the docility which real infants usually show. When this was done, 'Now we must go tell papa good-morning, dearie,' said mama. 'Yes, mama,' came the reply; and hand in hand they started to find papa. I, the spectator, carefully read my newspaper, thinking, however, that the reality of papa, seeing that he was so much in evidence, would break in upon the imagined situation. But not so. Mama led her baby directly past me to the end of the piazza, to a column in the corner. 'There's papa,' said mama; 'now tell him good-morning.' — 'Good-morning, papa; I am very well,' said baby, bowing low to the

column. 'That's good,' said mama, in a *gruff, low voice*, which caused in the real papa a thrill of amused self-consciousness most difficult to contain. 'Now you must have your breakfast,' said mama. The seat of a chair was made a breakfast table, the baby's feigned bib put on, and her porridge carefully administered, with all the manner of the nurse who usually directs their breakfast. 'Now' (after the meal, which suddenly became dinner instead of breakfast), 'you must take your nap,' said mama. 'No, mama; I don't want to,' said baby. 'But you must.' — 'No; you be baby, and take the nap.' — 'But all the other children have gone to sleep, dearest, *and the doctor says you must*,' said mama. This convinced baby, and she lay down on the floor. 'But I haven't undressed you.' So then came all the detail of undressing; and mama carefully covered her up on the floor with a light shawl, saying, 'Spring is coming now; that'll be enough. Now shut your eyes and go to sleep.' — 'But you haven't kissed me, mama,' said the little one. 'Oh, of course, my darling!' — So a long siege of kissing! Then baby closed her eyes very tight, while mama went on tiptoe to the end of the porch. 'Don't go away, mama,' said baby. 'No; mama wouldn't leave her darling,' came the reply. . . .

"How rich the lessons from such a simple scene as this! As for Helen, what could be a more direct lesson — a lived-out exercise in sympathy, in altruistic self-denial, in the healthy elevation of her sense of self to the dignity of kindly offices, in the sense of responsibility and agency, in the stimulus to original effort and the designing of means to ends — and all of it with the best sense of the objectivity which is quite lost in wretched self-consciousness in us adults, when we personate other characters? What could further all this highest mental growth better than the game by which the lessons of her mother's daily life are read into the child's little self?

And then, in the case of Elizabeth, certain things appear. She obeys without command or sanction, she takes in from her sister the elements of personal suggestion in their simpler childish forms; and certainly such scenes, repeated every day with such variation of detail, must give something of the sense of variety and social equality which real life afterwards confirms and proceeds upon; and lessons of the opposite character are learned by the same process." [1]

Nothing is more helpful in developing the child's moral nature than games that involve moral situations. Not only are the moral emotions of the responsibility and approval groups called into healthy exercise at the time of playing the games, but thus naturally aroused, they are ready to illuminate all the situations in which obedience is exacted, and thus to turn slavishness into duty. And what is said of games applies of course to any experience in which the child is led to imitate the moral behaviour of its elders to children and to one another. On the other hand, compulsion through obedience helpfully strengthens, extends, and enlightens the teachings of imitation, suggesting to the child many actions that unaided it would have undertaken only much later, exercising his self-control, and directing his attention to less evident features of the situations in which he finds himself. Obedience without imitation would lead to the inflexible, unprogressive form of morality, in which prescribed actions, if performed at all in the absence of constraint, would be performed with neither understanding nor devotion; imitation without obedience would fail to develop the self-control necessary to curb strong inborn bent, and would lead to undisciplined eccentricity, often amounting to moral crankiness. For healthy moral development, both together in due measure seem to be necessary, — both good example and wholesome compulsion.

[1] *Mental Development*, pp. 362–365.

§ 4. The Effect of Temperament on Conscience

From what has been said so far it might be supposed that the child's moral nature is entirely plastic under the influence of obedience and imitation, that what any child's conscience was to be in after life would depend wholly on the obedience that was exacted of him and the examples given him to imitate. Against such a conclusion all our ordinary experiences and prepossessions rebel. We are well convinced that as a matter of inborn disposition children differ radically, and that obedience and imitation can only modify what is inborn. Not of wholly plastic material, as we think, is the child's moral nature made, but of material that is in part stubborn, with a character of its own. And this common-sense view is supported by the more careful observations of science, as may now be briefly shown.

Turning first to the analogy of the non-moral emotions for assistance, it is apparent on very slight reflection that different people are quite differently endowed with them by nature. Well recognized in fact are the different temperaments, the irascible being easily stirred to anger, the vindictive to revenge, the melancholy to depression, the sanguine to hope, the affectionate to kindly feeling, etc. In a word, so far as the non-moral emotions are concerned, it appears that their being aroused is very largely a matter of inborn disposition. Imitation and obedience, education by example and precept, can only with the greatest difficulty counteract what is "bred in the bone," or rather in the nervous, the vascular, in general in the bodily system. Nor does there seem to be any reason for holding that the moral feelings follow any other rule. As regards the minor moral emotions there is no difficulty. Some men are born with a high sense of justice; indeed, such a sense seems to be a natural possession in certain families. Others are similarly disposed towards truth,

honesty, temperance, or benevolence, etc. No doubt it would be difficult to give with precision the evidence on which these statements rest, but that is not necessary, as the statements are not likely to be disputed. What the relative importance of nature and nurture is, it would be difficult if not impossible to say, but that each is important and has influence is too plain to be discussed.[1]

Nor, with the non-moral and minor moral emotions so largely dependent on temperament, does it seem necessary to say much regarding the universal moral emotions of the responsibility and approval groups. At the basis of these too there are particular bodily processes that some nervous systems are much more ready to set up than are others. And again, it is the non-moral feelings and inclinations first above suggested, that conscience has to control, and if they vary, the control that conscience can exercise over them must vary also. All emotions, then, as we may generalize, depend partly on nature and partly on nurture. What shall be the amount and direction of the influence upon the moral nature of the child who is called upon to obey, or is incited to imitate, will accordingly depend partly upon the acts to be obediently or imitatively done, but partly also upon the inborn moral bent of the child.

§ 5. The Development of Conscience

The discussion so far has dealt with the birth of conscience in the child, and with the three factors, temperament, obedience, and imitation, that determine the conditions under which and the form in which conscience shall appear. It is now necessary to discover how conscience comes to develop into the psychic possession described in a former chapter.

It should be said at once that it is only very gradually that conscience becomes organized and systematized into

[1] Cf. Hodgson, *Theory of Practice*, Bk. I, Ch. IV. One of the types of character described is the duty-loving with its "passion of morality."

a unity. At first it is a mere chaos of ideas of action and impulses to action, with little, if any, interconnection. But there are two main forces at work that aid in bringing some measure of order out of this chaos. For, in the first place, all moral actions have much the same emotional basis. In all of them feelings of the responsibility and of the approval groups appear, and in all of them there is the sense of the double warrant, social and individual. Again, the favourable and the unfavourable feelings divide moral phenomena into the good and the bad, while lesser moral feelings tend to systematize them into the just, the temperate, the brave, the honest, etc. And, in the second place, later on, when the child comes to talk, think, and discuss, questions of morality are likely to be of no little interest to him, especially when the social forces of his nature spring up in strength about his fourteenth year. And this thinking and discussion and observation of the terminology, ideas, and practices of others helps the child to some comprehension of the system of morality. He hears of good and bad, of right and wrong, and he hears that benevolence, lying, temperance, dishonesty fall in either class, etc. All this helps to work together into some unity, if not into much system, — there is little system in most consciences, at least little conscious system, — his moral feelings and ideas. There is much disorder when maturity is reached, but his conscience is not all disorder.

No words need be wasted to show how conscience comes to be made up of ideas of agents in action. Since it is in doing what is commanded and in imitating moral agency that conscience is born and develops, no other result is possible. Equally unnecessary is it to discuss the dynamic character of conscience.

A fourth characteristic of conscience, as described, is that it is schematic, and the reason for that can now easily be shown. The child, namely, never fully learns the possibilities of moral agency, any more than he does the possi-

bilities of aggressive, submissive, or social agency. The more puzzles are solved, the more open up for solution. The goal retreats before the runner; there is always a large residuum that remains puzzling still. And what is true of these earlier selves is even more emphatically true of the moral self. Certain types of moral action he performs, and thus he experiences what it is to perform them, and he comes to know their names, and with it all he becomes familiar with them. But there is much in the realm of morality that he has not performed, much that he has not classified, much that he has not even an idea of. Try as he will to do the things called "right," or "duty," or "good," and try as he will to learn what they are, the child can never quite succeed in achieving them, nor does he fully know what they are. And if it be asked how then the child comes to think at all of these actions that he does not know, the answer must be that he thinks of them as he thinks of other "projective selves." Just as similar non-moral actions are thought of as the actions that other wiser and more competent leaders, followers, and socii can perform, just so unfathomed moral actions are thought of as the actions of wiser and more capable moral agents. Whatever good conduct he has learned, he has learned from others as that which they do and want him to do, and again he must think of this higher reach of morality as that performed and known by good and wise persons; in no other terms is it possible to think of more action of the same kind. What the child does not do and know, his mother or his father does and knows, and he is to be like them. And later, when the limitations of father and mother are discovered, he conceives of the larger stretch of morality of which he is ignorant as embodied in his teacher, in his friend in life or in literature, in the seers, prophets, and leaders of men throughout the ages. And when all these are found to be fallible and of sadly limited knowledge and experience, he thinks of genuine

morality as embodied only in the allwise and benevolent Deity.

From all this it is evident that at all stages of development there are two parts to conscience, the relatively clear and the relatively obscure, the code element and the ideal element, in the narrower sense of the latter word, the first part consisting of a body of laws specifying and describing actions and abstinences, and the vaguer ideal part consisting of the largely undefined notions of what certain respected and revered persons would perform and exact. Certain actions the moral agent, whether child or man, knows to be right and wrong, as has been shown in the discussion of moral conceptions and categories. And of course as far as they go these conceptions and categories are clear. Up to a certain point all know with some definiteness what lying is, and what stealing, dishonesty, intemperance, and other such immoral and moral actions. But, on the other hand, beyond that point for each, these conceptions and categories are far from clear. The child finds, for instance, that he is expected to be fair, kind, and truthful. But he cannot tell what fairness, kindness, or truthfulness is in the way of clear description, nor does he always know what each requires when he is called upon to act; and the mature man's knowledge is greater only in degree. Here it is that the ideal comes in, holding up the example of those who know how to act fairly, kindly, and truthfully, even though they cannot put their knowledge in the form of handy precepts. And of course there are many moral situations in which it is not merely a matter of understanding a single category. These situations are so complex that men cannot classify them under categories at all, but can only at best feel their way to proper action; for it is only in simpler cases that the categories, those "tools of analysis," as Professor Dewey calls them, are of very much service. Here again the ideal comes in to assist, offering the examples of the great

leaders who have known how to be moral in similar and equally difficult situations.

And here it is possible to draw the distinction between the three main types of conscience, a distinction that will be used in the next chapter. First, there are the consciences that have a code but no ideal, second those that have an ideal but no code, and finally, those that have both a code and an ideal: the unprogressive, the radical, and the progressive types of conscience.

Most typical of the first are the men who accept a strict code and demand that all others shall follow it, the Pharisees, ancient and modern, who insist on the letter of the law. "Let justice be done though the heavens fall," might be taken as their motto, to be applied to each item of custom and ceremonial with indiscriminate rigidity. Their code is grasped only in the letter; its ideal spirit is neither sought nor caught by any accident, and can never be put into practice. Not only a large number of individuals, but, as Sir Henry Maine has shown, the preponderating majority of races have followed custom and tradition so literally as to remain stagnant, the races sunk in savagery or barbarism, leaving progress to the few who have been beckoned onward by the ideal.

At the other extreme are the consciences that insist on judging each case "on its own merits." They have no sense of the sanctity and wisdom of tradition and custom, and no devotion to any principle, however time-honoured. "The law is made for man and not man for the law," might be suggested as their motto, for where they think human interests demand it, they are ready to lie, to cheat, to acknowledge false gods, to temporize with evil to almost any extent. For them every question is open, not only in theory, but also in practice.

Midway between, constituting the golden mean in a very true sense, are the consciences that seek to apply their principles with ever increasing adequacy and enlighten-

ment. For the fundamental principles of morality are not open questions. Dishonesty, injustice, lying, and their like are never right to such consciences. And similarly they look on honesty, justice, truth, temperance, and other basal virtues as deep and sacred, and, at the same time, as too full of profound wisdom to be dissected and set forth in a code, ready to hand to be used by any tyro. They see that for the proper application of moral principles, open-eyed, unarbitrary, and trained sanity of judgment is indispensable. They see that every moral action is original, but in the sense that it is the original application of eternal principles. Both the code insisted on by the first type, and the fresh and original appreciation of living interests, with a view of doing the best that is feasible, insisted on by the second type, have justice done them.

§ 6. The Authority of Conscience

We started out to discover the trustworthiness of conscience, which is our only witness as to the nature and distinction between right and wrong. Not much can as yet be done to solve the problem, indeed practically nothing towards judging of the relative trustworthiness of different consciences. For light on the latter problem, and on others whose solution depends on its solution, the investigation into the origin of conscience in the race, undertaken in the next chapter, is necessary. But with regard to the trustworthiness of conscience as compared with other human faculties, something can be said in the light of the present inquiry.

One conclusion that has become increasingly plain is that conscience does not voice the likes and dislikes of the individual. For, aside from earlier evidence, it was here seen that conscience does not arise till the child sees those about him restraining their desires and practising their aversions, and seeing, imitates them.

But, at the other extreme, it cannot, without some reser-

vations, be said, with Clifford, that conscience is the voice of his tribe in the individual, the voice of the organized society to which the individual belongs, though Clifford's view is not far from the truth. The reasons for rejecting, or rather modifying the view, are, in the main, three. The child does not come into contact with all the members of his "tribe," and his conscience cannot therefore get "copy" from his tribe as a whole. He belongs to one class falling under each of the main kinds of associations into which his country is organized. He belongs to a particular social class, to a particular religious class, to a particular political class, etc. With the consciences of classes other than his own in each case he does not come into contact; the Jew is little influenced by the Christian conscience, the wage-earner by the professional man's conscience, the liberal by the conservative's conscience, etc. Again, the child's individual temperament prevents him from getting items of conscience from many with whom he does come into contact. The outlook of many people is so foreign to him that he is not prompted to imitate them, and when he obeys them he does so in so external a way that little trace is left on his conscience; no reasonable or satisfactory result appears to him to flow from the required actions. Finally again, because of temperament, not all that influence him do so in equal measure. Some, the more congenial, influence him more; others, the comparatively uncongenial, influence him less. The people who arouse trust and confidence in him influence him most, while others influence him less and less as his trust and confidence in them decrease. The result is, that, partly through the accidents of association and partly through the bent of temperament, the child cannot take up into his conscience and organize contributions from all the members of his tribe.

But while the conscience acquired by the child is bound to be partial, it is, nevertheless, widely representative, and stands or tends to stand for what may be called relatively

settled conclusions. In so far as those who influence the child differ on moral matters in example and precept, their influences are likely to counteract one another, and thus to leave little residuum in the child's conscience. It is what all agree on that gets firmly fixed in the child. Moreover, where any individual who influences the child is unsettled in his practice, or even in his theory, the child fails to get definite items of conscience. And here the result is similar to the last. For, on the whole, teachers are unsettled where the sentiments of their community are unsettled and conflicting, and are decided where their community is at one. Of course this is true only in the main, but to that extent it is true.

In general then it may be said that the conscience of the child tends to represent the attitudes of his tribe towards conduct, in so far as the tribe has assumed definite attitudes in the matter. Public opinion is to some extent fixed, at any time, both as regards precepts (moral categories) and as regards eminent examples, as embodied in the recognized leaders and heroes in the various fields of human endeavour. From these two sources the child tends to get the settled code and ideal elements of his conscience, and does get them in so far as association and temperament does not prevent.

Conscience, in a word, stands or tends to stand for the common good. It encourages, not merely the actions and abstinences that the individual, with a view to his own interests, demands, but the actions and abstinences, so far as they have been identified, that all the members of society, including the individual in question, demand. Conscience is the voice of the individual and of the fellow-members of the society to which he belongs, in so far as all the members of the society have reached agreement in their attitude towards actions and abstinences. And, therefore, when an individual has acted immorally, "for obvious reasons it is *right*" to say, "'In the name of my

people, I do not like you,' and to express this dislike by appropriate methods. And the offender, being descended from a social race, is unable to escape his conscience, the voice of his tribal self, which says, 'In the name of the tribe, I hate myself for this treason that I have done.'"[1]

[1] Clifford, *On the Scientific Basis of Morals.* What the individual's descent from a social race has to do with the question, the next two chapters will explain.

CHAPTER VIII

Birth and Growth of Conscience in the Race

§ 1. The Problem

In discussing the scope of Ethics in Chapter I it was pointed out that in order adequately to determine what conscience stands for and aims at, it is necessary to investigate its history from the beginning; for, as was there said, it would be as absurd to confine attention to present-day consciences, as it would be, in a study of what the Anglo-Saxon race stands for, to confine attention to living representatives of that race. The problem of the genuine rôle of conscience is large enough to sober any investigator, and all the facts that can by any means be observed are none too many for its solution. Accordingly the purpose of the present chapter is to discover the conditions under which conscience appears and develops in the race, together with such other facts as may appear during the investigation to throw light on the nature and rôle of conscience.

But the problem is not only large, but extremely difficult because of the inaccessibility of the facts, and a few pages may well be devoted to pointing out the difficulties, and to determining on the best method of procedure. As all authorities are agreed that even the most primitive men have consciences, the reader's attention will be first directed to earliest man, with a view of determining how best to gain knowledge of the state of his conscience.

Earliest Man. — In searching for earliest man it is nec-

essary to go far back of the civilized men of to-day with whom we are familiar. Civilization and all its arts must be abandoned, coming to a time when the art of writing was unknown, and men were barbarians, who barely knew the use of bronze and practised a rude agriculture. And even here we cannot stop. At a still ruder stage man did not know agriculture; and before that he had not even learned to domesticate animals for their milk and their meat, and as beasts of burden. In this primitive time, known as the Paleolithic Age, he did not know how to polish the rough stone implements that he used in the simplest way. "In the Paleolithic Period man was the contemporary of the cave bear, the mammoth, the woolly rhinoceros, and other extinct carnivora and pachyderms. The climate was severe; the distribution of land and water was different from what now prevails; pottery, even of the rudest type, was unknown; the people were nomad hunters, living in caves and rock shelters. . . . It is possible that the Paleolithic Period may have begun, as M. de Mortillet believes, in the Quaternary Period of the geologists, some 240,000 years ago."[1]

But if the earliest men who left artificial remains in the form of chipped flints lived in the Quaternary, "it is certain that earlier men lived who had not thought of chipping flints. . . . The associations of the earliest men must have been conditioned by the abundance and accessibility of the kinds of food that could be obtained by the hands aided only by stick or stone,"[2] such as roots, bulbs, nuts, wild honey, and possibly fish, shellfish, and easily captured animals. In a word, a very respectable array of evidence, which though in need of substantiation in detail is impressive in its totality, renders it highly probable that earliest man, or at all events his all but human ancestors, lived in the Tertiary Period, in the Pliocene or pos-

[1] Isaac Taylor, *Origin of the Aryan.*
[2] Giddings, *Prin. of Soc.*, p. 211.

sibly in the Miocene, many times 240,000 years in the past.

And some guess can also be made at the region in which the process of humanization took place. Many considerations render it not improbable that the scene of man's development from a lower type was a region or zone "where a climate ranging from tropical through subtropical to temperate is known to have prevailed in the Tertiary Period; where the higher catarrhine apes (who are most closely akin to man) are known to have existed; where the earliest remains of man are discovered; and from which the lowest races of men could have been distributed as we now find them."[1] In the early Tertiary western and southern Europe, northwestern Africa, and southern and eastern Asia formed a northern continent, which was divided off from a southern continent, which included the greater part of equatorial and southern Africa, by shallow seas (where are now the Saharan Desert, the eastern half of the Mediterranean Sea, and the Euphrates Valley) connecting the Atlantic and the Indian oceans.[2] Here it probably was that the transition took place that resulted in the appearance of man. Or at least the scene of the process was the portion of these Tertiary continents that fulfil the conditions mentioned above, "a tropical and subtropical zone that reached halfway round the earth from Java northwesterly to England. More exactly, it was the southwestern slopes and shores of the vast Tertiary continent of Eurasia, the Tertiary island of Hindostan, and the northern shores of Tertiary Africa."[3]

This time and place presented conditions exceedingly favourable to great and momentous changes in fauna and flora. Rapid and irregular emergence and subsidence of the two continents in different regions were changing the distribution of land and water from that obtaining in the

[1] Giddings, *op. cit.* p. 218. [2] *Vide* Giddings, *op. cit.* p. 215.
[3] Giddings, *op. cit.* p. 219.

Tertiary to that that still exists to-day. It was at this time that the glacial ice sheet spread southward to retreat northward, and retreated to the north to return to the south again, bringing with each change enormous modification of climate that must have sternly repressed all but the sturdiest variations. Again, at times the continents were connected and at times they were not; now mountain barriers arose, or an arm of the sea intervened to separate adjacent territories and their inhabitants, and again they disappeared to join those that were separated. And thus to the glacial changes other forces, operating largely through diversions of air and water currents, were added that made for great variations of climate, and increased the sternness of natural selection. So the conditions at times isolated clusters of hominine groups here and there, and allowed them to vary in relatively independent directions, and soon different isolated clusters were again brought together in rivalry that resulted in the survival of the fittest. In a word, the conditions were, on the one hand, favourable to wide and rapid variations, and, on the other, powerfully selective of the strongest variations, all of which constituted a situation in which the highest ape-like animals might well have been gradually transformed into primeval men.

Here it is, then, in these groups that stood on the borderland between animals and men, barely struggling on to their feet, and blindly groping their way to reasonableness and morality, that search must be made for the earliest germ of conscience. But of course it goes without saying that these germs cannot be directly observed. All the physical remains of primeval men, to their bones and whatever rude implements they may have possessed, are buried so deep that none have yet come to light. And, *a fortiori*, any direct knowledge of their psychic state, mental and moral, is out of the question.

Method of Approach. — But though direct evidence fails,

indirect evidence is attainable, and may, properly used, do much to indicate the conditions under which conscience first appeared and afterwards developed. There is, namely, all but unanimous agreement in the view that conscience is present in all men, at least in all normal men, and absent in all animals. Some believe that their pets are conscientious, but their evidence is not very judicial. It may be, then, that conscience is one of the differences, or that it grows out of one or more of the differences, between men and other animals. This hypothesis is at least plausible, and has the further virtue of being open to test, since the problem of the differences between men and animals is not insoluble, as the facts exist about us in plenty to be examined by those who will. This problem will accordingly be undertaken at once, mental differences being considered first, and physical differences second.

§ 2. The Essential Difference between Man and Other Animals [1]

Mental Differences. — The broad fact that there is some mental difference between animals and men has always been recognized, and is commonly asserted in the statement that only men possess reason. But it is evident that animals also possess some sort of mind and conscious life, and the problem of the mental differences thus reduces itself to the problem of defining precisely what is meant by this "reason" that man alone possesses.

Until comparatively recently it was generally believed by those who had given attention to the subject, that the possession of general ideas made abstract thinking possible, and was the essence of reason. But for some time this view has been abandoned, for animals possess general ideas, and these ideas are present in our minds when no reasoning is going on. The evidence for these statements

[1] For a fuller discussion of this problem, see my paper with the same title, *Tr. Texas Ac. of Sci.*, 1898, p. 23.

is abundant and readily accessible, and need not claim space here.

Speech. — With the abandonment of general ideas, indirect has been substituted for direct attack on the problem. Instead of studying reason as a mental process, careful study has been made of reasonable actions that are so much more accessible. And especial attention has been given to speech, in which most reasoning and all higher reasoning finds expression. The study of speech has been very profitably carried on by the late J. G. Romanes, and the conclusions reached have been usefully tested and enlarged, as a result of a controversy of some duration between that scientist and some others who were more or less opposed to the theory of evolution, and especially to the hypothesis of mental evolution, prominent among the opposing scientists being Professor St. George Mivart, recently deceased. Fortunately the merits of that interesting and important controversy need not be considered here, as only the points of agreement will be made use of in this connection.

The first difficulty encountered was the fact that animals, too, use signs that convey meaning, vocal and other signs, and that the meaning is actually understood. One observation in point, by no means the most significant, may be quoted from Romanes : " Further, I give an observation of my own on one terrier making a gesture sign to another. Terrier A being asleep in my house, and terrier B lying on a wall outside, a strange dog, C, ran along below the wall on the public road following a dogcart. Immediately on seeing C, B jumped off the wall, ran upstairs to where A was asleep, woke him up by poking him with his nose in a determined and suggestive manner, which A at once understood as a sign ; he jumped over the wall and pursued the dog C, although C was by that time far out of sight, around a bend in the road."

But, in spite of a large amount of evidence, similar to

and some of it stronger than the case of the three terriers, those engaged in the controversy, and comparative psychologists since them, still maintain that speech is a distinctive human possession. Animals, they admit, use language, but man alone has the power of speech. For, as they assert, signs may be used in the way of language without reason, but the use of signs as men use them in the way of speech is possible only to reasonable beings. What, then, is the difference between language and speech? Or, otherwise expressed, what is the essential characteristic of speech as distinguished from language?

That question is again answered in agreement by the parties to the controversy, and by their successors, and the answer may conveniently be put in the form of two propositions: the power of making judgments is the essence of speech, and self-consciousness is the essence of judgment. A few words on each of these propositions will make them clearer.

Judgment. — As to the first, all should be familiar with judgment, statement, assertion, in general with what is usually treated of in the second subdivision of books on logic, coming in between the discussion of terms and concepts and the discussion of syllogisms and reasoning. When a judgment or statement is made, something is being talked or thought about, there is a topic or subject of present interest, *e.g.* Socrates or the weather, and there is besides an attempt to say or think something about it, *e.g.* that he is mortal or that it is warm, and moreover to say or think something that further knowledge of the subject itself will not contradict. What judgment as a psychic fact is, can probably best be suggested by contrasting it with mere floating thoughts or images, or with barely contemplated perceptions. In a state of revery thoughts and images, very vivid possibly, float before the mind, but no attempt is made to fit idea to fact, and no experience can be afterwards had that will

contradict any thought or image then entertained; no judgment has been made. And so it is when merely contemplating or drinking in a landscape with the eyes, the sensations being accepted passively with no attempt to understand or characterize them. And, if speech is to be distinguished from mere language, a similar contrast between signs of assertion and signs that do not assert will best serve the purpose. Consider, for instance, the mere groans of pain of the solitary hunter accidentally shot far in the forest, and compare with them the groans he gives later to tell an unskilled nurse that his position is uncomfortable. The first groans are significant enough, and would be understood by any one at hand, even by the hunter's dog; they are in fact like the language-cries of animals. The second groans assert discomfort, and are human speech. Speech is an *attempt* or *endeavour* to convey by signs some idea of certain facts. Language is made up of signs, which are the result of instinctive, reflex, or other unreflective action, that make no attempt to convey ideas, although in fact they do so.

Self-consciousness. — And as to the second proposition above, that should not be difficult to understand in view of previous discussions. In familiar words, it means no more than that a man cannot really judge unless he knows what he is about, unless he knows, to put it in slang phrase, what he "is up to." In order to judge, a man must know what *he means* to talk about, and what *he means* to say about it. If he does not know so much of himself as that, he may be using words, but he is not judging. A man must be conscious of what *he is saying*, he must know what *he is talking or thinking about*, or else he is not judging. The central fact can be put in a number of ways, but after all is said, it simply comes down to this: that judgment implies wide-awake, critical, reflective, assured, self-conscious assertion, the sort of assertion that the speaker himself understood when he made it, and is

ready to stand up for, because he knows that and how he made it. Words pronounced "absent mindedly," with a dim consciousness, or with no consciousness of what one is doing, may convey meaning, but they do not form a judgment, and the speaker will deny that he really meant what they said. Now it is this sort of deliberate, self-conscious assertion, in which the agent knows what he is saying, it is, in a word, judgment, thus defined, that animals never achieve. They may convey meaning, but they do not intend to do so, and they are not conscious at the time, that they are conveying meaning, or what meaning they are conveying. Only reasonable beings are capable of speech; speech depends on judgments, and is made up of assertions in more or less orderly arrangement; and judgment and assertion is a self-conscious procedure.

And at this point it is interesting to remind the reader that the same conclusion is reached by Kant, probably the greatest of modern philosophers, in the best-approved pages of his *Critique of Pure Reason*. Attacking directly the problem of the essence of reason, and as a result of many years of thought, unparalleled in patience, he comes to the conclusion that the very heart and essence of human reason is what he calls the unity of apperception, by which he means self-consciousness, reflective assurance, knowing what one is asserting.[1]

Voluntary Action. — Accordingly, whether the problem is to discover the difference between men and animals, or to discover the difference between speech and language, or to discover the essence of human reason, whether the problem is attacked directly or indirectly, the solution is found in the fact of self-consciousness. Scientists and philosophers differ widely as to many problems in this difficult field, but on this one point all are in agreement. And in view of this agreement, the next step readily suggests itself. If

[1] Of course no attempt is here made to exhaust the rich meaning of Kant's much-discussed phrase.

self-consciousness is the distinguishing characteristic of reason, and the essential difference between man and other animals, the more we know about self-consciousness, the more we will know about our problem. And, of course, the first question with a view to increasing our knowledge is, What are we conscious of when conscious of self? And to this the answer, sufficient for present purposes, is, that we know or are conscious of what we are about, what we are "up to," what we mean, are aiming at, or intend; in a word, we know what voluntary action we are performing. This is not offered as a sufficient account of the object of self-conscious awareness, but as an account of a part of it essential in the present connection. For to be judicious, to be critical, to be wide-awake, to be reflectively assured, is to know what one is saying or otherwise doing, and to have such control as to be able to correct, amend, supplement at will. If one does not know what one is doing, or does not or cannot say or do what one means, wishes, intends, or purposes, one is not self-conscious, and does not make a judgment, or perform any other kind of voluntary action. Nor is this an arbitrary account of self-consciousness manufactured *ad hoc;* on the contrary, it is in harmony with the most careful analyses made.[1]

[1] While this is not the place to discuss the question, a few words in further elucidation may be permitted in a footnote. Over and above the agent, or active self, psychologists distinguish the bodily self, the self of memory and expectation, and the social self. But important as these are in the finished product, I believe they can be shown to be comparatively accidental elements caught up in the eddy of voluntary action. To be sure, the social self is, as to its mind-stuff, made up of voluntary actions, while the other two selves are present as mind-stuff before volition arises, but the first is not conceived of before the rise of volition in the agent, as has been sufficiently shown, and the last two have to await the appearance of volition to get organized into selfhood. But aside from that question, allowing the other selves to be as essential as any one chooses, it cannot be disputed that the voluntary actions constituting the agent are also indispensable. On this whole question, cf. *Psych. Rev.*, *loc. cit.*, article by Royce, and also Baldwin's discussion of the genesis of the self in his *Interpretations.*

It appears then that men are capable of acting voluntarily, that they know what they are about when they make statements or perform actions, while animals do not know what they are saying or doing. And when this result is examined a little further, fresh confirmation appears in the discovery that it explains very well the difference between articulate, reasonable speech and mere words. For is not the precise difference between significant speech and mere words to be found in the fact that the former has meaning, intent, purpose, that it sticks to the point and endeavours to convey ideas, in a word, that it is a voluntary performance, while the latter is aimless, without purpose or consecutive intent, as is seen in the babblings of the child, in the incoherent words of the insane that lead nowhere and mean nothing, and in the vocal gymnastics of the parrot? So much, indeed, Romanes asserts, though without drawing the obvious inference that voluntary action is the essentially human capacity, probably for the reason that he does not see that to mean something and to intend or will it is the same. "So a man means," he says, "it matters not by what system of signs he expresses his meaning ; the distinction between him and the brutes consists in his ability to mean a proposition." [1]

Effort. — One more step remains to be taken and then the distinguishing human characteristic will have been described in the simplest possible terms, a step moreover which the former analysis of voluntary action makes it possible for us to take very easily. For it was there

[1] *Mental Ev. in Man*, p. 164. It may be added that logicians have long known that intent or purpose is the essence of judgment. Cf., among others, Venn, *Emp. Logic*, p. 209 *sq.*, also Royce, *Relig. Asp. Phil.*, Ch. XI *passim*. It is not a little surprising that after hitting upon judgment and self-consciousness as distinguishing characteristics, comparative psychologists should not have gone to logicians, who analyze judgments as essentially purposeful performances, and drawn the inference that purposeful or voluntary action is the distinguishing mark in its lowest terms.

shown that voluntary actions are essentially controlled performances, adjustments and movements that we make what they are by dint of effort, of endeavour, of trying, because such effort seems worth the while, in view of the end or purpose to be attained, or at least adjustments and movements that we feel we could alter if we put forth effort. In short, voluntary actions are controlled, or "feel" controllable by effort, and that is of their essence. It seems then that man can put forth effort, can try, can set his teeth and square his jaw to accomplish what he wills, while animals have no such power, being limited to such actions as their instincts and impulses, more or less backed by their feelings, can accomplish for them. No animals can perform difficult actions. With them the recalcitrant matter of muscles and members is not constrained to the more skilful performances counselled by the ideas that look before and after. But volition means the constraint of the lower nature in the interest of ideal plans, as we have already seen and will more fully see presently. Man by trying can rule his desires and his muscles, and for him the doing of the difficult, self-mastery, is possible. Therein lies the essence of his superiority.

In these days of manual training it hardly needs saying that speech is not the only activity in which reason can be expressed. Other forms of reasonable activity will be discussed presently.

Physical Differences. — The next question that arises for solution is as to how the power or capacity of putting forth effort came to be acquired, and that is a question that can best be answered after a consideration of the physical differences between man and other animals. To be sure the answer will be no more than an hypothesis, but significant facts can be advanced in its favour, and, besides, the only way to answer unanswered questions is by means of hypotheses. First, Darwin's account of the physical differences will be given; so thorough was his

work, that it is accepted substantially without amendment to-day.

Man's most striking physical characteristic is his erect posture ; so much is plain to all. But while others were satisfied to wonder at it, Darwin set himself to work to discover the differences in bodily structure that make the erect posture possible, and to explain how these differences came to arise. In his account there are two points of departure, the hand and the brain. First, as he suggests, the forefeet of the hominine apes somehow varied into greater similarity to the wonderful human hand, the most skilful and adaptable single instrument that Nature has ever devised. And, as the hand, deviating from the forefoot, grew in utility and came to be more used, its effective employment being largely dependent on the firmly erect posture, changes appeared in the feet, legs, pelvis, and spinal column that made erectness possible. Again, the hand superceding the powerful canine teeth in the matters of offence, defence, and in other ways, the massive jaw of man's ape-like progenitors was necessarily modified and reduced. This completes the first movement. The other line of departure, which Darwin does not coördinate with that beginning in hand development, began in a great increase in the weight, size, and consequently, owing to the confining skull, in the convolutions of the brain. And finally the increased weight of the brain, together with the erect posture, contributed to the modifications in the shape of the skull and spinal column. In view of the large part that intelligence is now known to play in hand movements, it may be added that hand and brain development were certainly parts of one and the same process.

Erectness and the Seat of Effort. — In short, the attainment of the erect posture necessitated changes in the hand, the jaw, the shoulders and spinal column, the knees, and the feet. And now note that this is a list that, even

for popular thought, is significantly connected with effort and will-power. For the unconscious and unbiassed testimony of language strongly indicates that these are the physical seats of will and the feeling of effort, some, no doubt, more, and some less, but all to some extent. For consider the following phrases expressive of a determined stand, or of a determined character, or of their opposites: "holding firmly in hand," "losing one's grip," "a firm jaw," "a square jaw," "setting one's jaw," "having backbone," "no backbone," "a cartilaginous backbone," "weak-kneed," "a firm stand," "flatfooted," "putting down one's foot," to which a number of others might be added in English, and in other languages. In short, it would seem that, following James's and Lange's well-known theory of the emotions, the feeling of effort has as its physical basis tensions, stresses, and other physical happenings located in the very bodily parts which had to be modified in order to transform fourfooted animals into men with erect statures and hands as well as feet.

And this valuable, because wholly unsophisticated and unprejudiced, testimony of language is reënforced by resort to introspection. For it takes little self-examination to make it plain that in moments of determination the jaw is set, the eye and brows are firm and tense, the neck, shoulders, and back are braced, the hands are gripped, especially the right hand, and the pelvis, knees, and feet are steadied as if to give a firmer stand. This evidence has not so far been tested by laboratory experiments, but it would be interesting and not at all difficult to do so, in order to determine what bodily changes take place in the parts named during the exercise of will-power. Of course it is not maintained that the movements of putting down the foot, of gripping with the hand, of stiffening the shoulders, etc., are overt and observable. It is rather a matter of incipient movement, of tensions and stresses of the muscular system, that are

felt in consciousness. These are believed to constitute the feeling of volitional effort.

The theory may now be a little more fully explained. It holds that during countless generations — for the process must have been very slow, stretching possibly from the Miocene into the Quaternary — situations of crisis and stress called on man's ape-like progenitors for hand movements, movements that very gradually grew in skill, and that necessitated the erect posture with all the changes that make it possible. This means that at such times of crisis and difficulty there was a great muscular strain, and in general a strain of movement in the legs, knees, spinal column, arm, etc., a strain made the greater because these parts and members were, for a long time, ill adapted to hold the body erect. And, moreover, it is likely that, as the hand came little by little to perform the actions of offence, defence, and skill that had previously fallen to the jaw, the powerful muscles of the shrinking jaw lost their special occupation, and acquired instead the *general* function of assisting the performance of difficult actions.[1] Thus gradually all these tensions and stresses came as a matter of habit, and possibly later as a matter of instinct, to be set up whenever difficulties appeared, whenever, that is, the muscles and members and bodily habits offered resistance to the movements counselled by the ideas with farther outlook. This, of course, must have been a very slow process — brutes did not become men in a day, nor in a generation, not even in a century nor in so much as a thousand years — which may have been conditioned only by variation and natural selection, or by these processes aided by the inheritance of acquired characters. However that may have been, in view of the

[1] The familiar grimaces, protrusions of the jaw, and general squirmings of the boy learning to write may, especially in view of his stage of development, be a case of atavism, and in any event are instructive in the present connection.

advantage of modifying the routine of action more readily and adapting it with greater nicety to changing conditions, the power of constraining action into accord with ideal plans was gradually acquired. The tensions and stresses incident to the erect posture and to hand movements, and added to them those of biting and other jaw action, became better organized and more effectively fitted to intelligent aims, or rather to their brain correspondents, with the result that they became dissociated from erectness and their other special functions, as such, and came to be an available force for the control of habits and instincts; that, in short, they became the bodily counterpart of the effort that is the central element of volition.

Summing up briefly: on the mental side the theory is, that effort, the essence of volition, differences men from animals; on the physical side the theory is, that the changes of structure essential to erectness constitute the difference; finally, the two theories are coördinated by the hypothesis that the physical basis of the feeling of effort is to be found in the bodily parts where the changes mentioned above took place, and by the explanation of how the tensions in those parts could acquire the general function of (the physical basis of) effort.

This may seem a slender basis on which to account for the truly vast differences in attainment between men and animals. But to hold the balance of power, as we already know effort does, is an incalculable advantage, and to give besides, as it does, very efficient support to intelligence as opposed to mere habit and routine, is an even greater advantage. After examining, in the next section, the effects that flow from the acquisition of volitional power, the basis will not seem insufficient.

§ 3. Effects of the Rise of Volition

If it is true that man's preëminence is due to his possession of will-power, it should be possible to point out

some of the modifications that owe their appearance to the acquisition of this power. It should be possible to show, that by becoming a being with a will, man becomes a being capable of the triumphs that mankind has actually achieved. In the present section a beginning will be made towards explaining these points, but the undertaking is a large one, and it will not be possible to go very far into detail. First, we will attempt to show how the individual was changed in character and capacity by the new acquisition, second, to make plain the biological importance of association, and thirdly, we will inquire into the effects of the rise of volition on social conditions.

Effects on the Individual.—The transformations brought about in the individual may conveniently be grouped under the three heads that common observation picks out as the distinguishing characteristics of man, viz. thinking, tool-making, and religion.

It will not be necessary to dwell at length on man's capacity as a thinking being, for it has already been sufficiently insisted on that reason is the faculty of critical and controlled intellectual operations. The individual, as was shown, is not a reasoning being so long as his thoughts take their own course. Thinking is essentially the controlled or purposeful marshalling of ideas, largely through the instrumentality of words. Thinking and thinking to a purpose are one. We fail to understand things, and, when curiosity is aroused, they puzzle us, because we cannot think what they are, because we have no idea of what they are. Ideas, the right ideas, are necessary in order to understand things. Now, of course, ideas are formed in part by association, repetition, attention, memory, and other purposeless processes. But such ideas are too simple, too vague, too much a matter of chance to answer most questions about our tangled and bewildering world. As inductive logic shows, in order to explain and understand the world, we must set to work

to frame hypotheses, to construct ideal schemes that will accurately and adequately describe the world's puzzling phenomena. And this construction is a difficult operation, one that requires effort, indeed a very continuous effort, as all scientists and logicians well know. It involves examining, discerning, analyzing, selecting, rejecting, putting ideas together in most varied combinations, holding in mind the gist of the problem, rejecting inept solutions, and holding to all promising combinations of ideas. But with effort all these difficult tasks can be accomplished, and their accomplishment means the whole of common sense and scientific explanation of the world that gives to man alone the mastery over it, and awakens our wonder when we contemplate it in its entirety all at once. Of course science is a very gradual growth, the reward that crowns generations, centuries, ages of intellectual effort.

It used to be held that tool-using is a distinctively human capacity, much as it was supposed that language is confined to man. But Darwin and many after him have shown that animals, especially the higher apes, use tools. It is the making of tools that only man compasses. Animals use tools if they happen by lucky chance to be at hand, while men look for them, and if they cannot find them, make them. Nor does it need any argument to prove that tool-making is a work of ingenuity, a purposeful fitting of means to ends. In thinking it is ideas that have to be shaped and wrought into instruments of explanation ; in tool-making the material is grosser, but the intelligence, ingenuity, devising, and constructing power is anything but inferior. Nor would it be easy to exaggerate the rôle that tool- and implement-making has played in assuring to man his place of supremacy in the world. For these resources to man's hand, gradually and painfully wrought out, include all weapons of offence and defence, from the first rough club and arrowhead to the

modern rifle and man-of-war with its armour and its eighty-ton guns; all domestic devices, from stones, simple pottery, and friction fire to the latest inventions of the modern kitchen; all clothes and shelters, from tree-bark and rock shelters to the fashions of Paris and New York and the dwellings of Belgravia and Fifth Avenue; all means of locomotion, from the ass and the ox to railways and steamboats; and all implements, from the first bone needle and stone knife to the delicate, smooth-running and strong steam and electrical machinery of our workshops. Material possessions can easily be overvalued, but that is no reason for denying either the intelligence that is employed in devising the many implements thus roughly suggested, or the large part they have played in facilitating man's rise from savagery through barbarism into civilization.

And finally, religion distinguishes man from other animals. Dread and fear animals experience, but the sense of the presence all about of supernatural powers that rule men and the world, and mould them to their purposes, the dispensers alike of the most essential benefits and the direst injuries, is an experience peculiar to man alone. Beginning with the vaguely conceived prototypes of Thor and Odin, of Zeus and Apollo, and of the grosser gods of savage tribes, and tracing the advancing evolution to the relatively intellectual and moral supreme deities of Buddhism, Mohammedanism, and Christianity, wherever we look, whether backward in time or far abroad in space, we find man believing to his weal or woe in spiritual powers, conceived to explain the mysteries of creation and sustentation, and of reward and retribution. And these religious beliefs have not been mere ineffective dreamings. No other characteristic of man has so largely affected his fortunes, for none has influenced him so intimately and at so many points, at once shaping his entire outlook on the world, and minutely regulating, especially in earlier days,

his individual actions in every field, — in his daily labour, in his domestic life, in his social gatherings, whether for diversion or for more serious purposes, and in his military and political activity. Nor is it difficult to explain why man alone is religious. No animal has any experience of agency, and none, therefore, has any means of personifying the forces and phenomena of nature. To animals, things, indeed all the objects about them, whether living or inorganic, are merely "projects." But man has experienced agency and has an idea of what it is, and just as he explains the actions of his fellows' bodies by ejecting agency and purpose and personifying them, just so he personifies the various activities of Nature and Nature herself, by conceiving of vast and ingenious beings whose purposes find fulfilment in the mysteries of the world.

Did space permit it might be shown that art also is possible only to beings endowed with will, no difficult task in view of the critical judgment that all artistic work requires. But as it is, probably enough has been said to make it plain that will-power is the force that is responsible for man's most distinctive theoretical and practical achievements. It should be noted in passing that many of these achievements have highly important social bearings. Some of these will be mentioned later, while others will be passed without further mention, because they are less pertinent to the present discussion.

Biological Importance of Association. — All are familiar with the power of numbers, and realize in some measure the importance for man of society, but some possibly may not be aware that association together in groups is the chief resource making for survival on which the higher gregarious animals can rely. Yet such is the fact, and an important fact it is fully to understand, for otherwise it is impossible to understand the forces that condition the rise and development of conscience in the race. The biological rôle of association has been carefully studied by

scientists, and the following sentences quoted from Professor Giddings, who partly quotes and partly paraphrases from Prince Kropotkin, are so much to the point, that no better can be done than to rest the case on them: —

"'The ant,' said M. Kropotkin, 'thrives without having any of the "protective" features which cannot be dispensed with by animals living an isolated life. Its colour renders it conspicuous to its enemies, and the lofty nests of many species are conspicuous in the meadows and forests.' The sting of a single individual is not formidable. Its eggs and larvæ are a dainty to many inhabitants of the forest. Yet ants are not much destroyed by birds, not even by ant-eaters, and are dreaded by most stronger insects.

"The cranes usually hatch but two eggs at an incubation, but to maintain the species they do not need to rear a numerous offspring; their social habits, intelligence, and prudence enable them often to attain to a great age.

"In their societies parrots 'find infinitely more protection than they possibly might find in any ideal development of beak and claw. Very few birds of prey or mammals dare to attack any but the smaller species of parrots.' It is most probable that the larger parrots succumb chiefly to old age rather than die from the claws of any enemies.

"Horses, 'badly organized on the whole for resisting both their numerous enemies and the adverse conditions of climate, would soon have disappeared from the surface of the earth were it not for their sociable spirit. When a beast of prey approaches them, several studs unite at once . . . and neither the wolf nor the bear, not even the lion, can capture a horse or even a zebra, as long as they are not detached from the herd.

"'That life in societies is the most powerful weapon in the struggle for life, taken in its widest sense, has been illustrated by several examples on the foregoing pages,

and could be illustrated by any amount of evidence, if further evidence were required. Life in societies enables the feeblest insects, the feeblest birds, and the feeblest mammals to resist, or to protect themselves from the most terrible birds and beasts of prey ; it permits longevity ; it enables the species to rear its progeny with the least waste of energy, and to maintain its numbers . . . ; it enables the gregarious animals to migrate in search of new abodes. Therefore, while fully admitting that force, swiftness, protective colours, cunningness, and endurance to hunger and cold, which are mentioned by Darwin and Wallace, are so many qualities making the individual, or the species, the fittest under certain circumstances, we maintain that under any circumstances sociability is the greatest advantage in the struggle for life.'"[1]

And the importance of sociability is at least as great for man as for any other animals. He is the descendant of gregarious animals, and has always lived in groups. His chief dependence is on association, and on intelligence and other qualities that themselves largely depend on association for their development. Accordingly the effects of the rise of volition on association should be noted, and the injurious effects noted with special care.

Social Dangers due to the Rise of Volition. — With effort and control man comes in growing measure to understand his world, to master it and obtain his desires, and to conceive of and worship the supernatural and unseen powers. All this is a gain. But there is another side to the picture. Man alone is an egoist. The animal is not a self, an agent, and cannot be interested in himself; in his experience there is no such thing as a self to be interested in. What we mistake for interest in self is his interest, and very strong it is, in various experiences of a satisfactory kind, in eating, in drinking, in fighting, in being caressed, etc. Besides, were it possible for animals to be

[1] Giddings, *Principles of Soc.*, p. 205.

interested in self, they could not intelligently, purposely, and with ulterior motive seek to advantage self, since they are without will. But man knows himself, and as time goes on he comes to take an increasing interest in this among the objects of which he is conscious. And as he does so, he comes to think out the consequences his actions will have on this, his object of greatest interest. Animals act in a way to bring themselves advantage and pleasure, but they do not act with the purpose of getting advantage and pleasure, both of which are ends of action for man.

It goes without saying that man's interest in self is far from an unmixed evil. It leads in time to more or less intelligent protection of every individual by the person who can most easily do so, namely, by himself. With the spread of sympathy, it leads to intelligent beneficence to others. And in the initiation of ambition and emulation, which are conditioned by self-consciousness and self-interest, it gives birth to two forces that do much for social progress — consider the importance of leadership — by stirring individuals out of sloth and spiritless content, and spurring them on to the pitch of endeavour.

But, on the other hand, human self-interest is one of the greatest dangers threatening association. In animals instinct provides for the sacrifice of individuals, where the interest of the group requires it. And instincts are able to impel to self-sacrifice when uninterfered with. For instincts are blind to the consequences that flow from the actions to which they lead. Where necessary, instinct leads social animals to put themselves in disadvantageous positions for the general good, and from this self-sacrifice they do not shrink, partly because they do not know of the self-sacrifice, and partly because, if they knew, they still could not control their instincts. To the individual bee it is a disadvantage to sting an enemy, for in doing so it lacerates its bowels by pulling out its sting, and dies in consequence. But these acts of self-sacrifice benefit

the species, as they cause it to be feared by its enemies. And of similar individual disadvantage and social advantage is the assumption of the post of danger by individuals belonging to groups of elephants, horses, wolves, and birds of various gregarious species; all such acts of self-sacrifice being instinctive performances.

But now comes man with his growing foresight of personal advantage and disadvantage, with his determination to obtain the former and escape the latter, and with his capacity for controlling his instincts and following his determinations. Naturally there could have been only one result, if new forces had not appeared to take part in the conflict. Individual foresight and purpose would have checked self-sacrifice for the general good, once it became consciously such; association would consequently have become weakened and eventually disrupted; and the barely humanized animals, whose chief dependence for survival, let it be remembered, is association, would have been exterminated. This would have happened had there been no countercheck or volition and its individualism. Put in different words, in man's animal progenitors there was a working adjustment between the actions in the interest of individuals, and the actions in the interest of groups. In man, by the appearance of voluntary action, the adjustment was disturbed, and the tendency was to give a dangerous preponderance to the former class of actions. Had it not been possible to restore the adjustment, man must have perished soon after he appeared.

§ 4. Social Counterchecks on Volition

But, of course, man did not perish, for there were forces in existence that tended to restore the equilibrium endangered by the appearance of volition. In considering these counterchecks on volition in the present section, those common to men and animals will be taken up first, and then those peculiar to man.

Instinctive Opponents of Volition. — In the first place, the social instincts which nascent volition assaulted were no mean antagonists. Earliest man was the heir of social animals and came naturally by the social instincts that played so important a part in contributing to their survival. Self-interested self-control might in time have undermined these instincts, but the victory would not have been easy and prompt, and meantime the instincts had a chance to gather assistance and man's social nature had a chance to develop.

Again, among man's animal progenitors and other gregarious animals another set of instincts are to be found whose function it is to punish those guilty of what may be called breaches of social instincts, and to reward the members of the group whose social efficiency is conspicuous. For instance, it is common among gregarious animals, notably among elephants, monkeys, and storks, to expel social offenders from the group, and, on the other hand, to reward in various ways successful leaders and other deserving members. And naturally these instinctive sanctions of social actions and their opposites are also a part of man's inheritance from his gregarious ancestry. And it thus happens, that while self-interested eccentricity is the deed of the individual, its repression is undertaken by the whole group, with a consequent probability of success that gives further security to early man's social instincts.

It should be pointed out here that these instinctive constraints to social action and restraints on anti-social action came to be self-conscious as man gradually formed the habit of noticing what he was about. This change need not in all cases have interfered with the instinctive impulsiveness of the actions; to the present day women turn on those who attack their children, and men bring down retribution on those who assail their children or their womankind, with all but animal impulse and immediacy.

But consciousness of a habit is sure to bring some modification to it in time.

These instinctive constraints and restraints formed, as they became self-conscious, the core of what will be called the instinct-custom element in conscience.

Intelligent Control of Volition. — In addition to these instinctive forces, there are reasonable forces supervisory of social conduct in man, and in man alone. These are in the main two, public opinion and conscience, the latter, as will presently appear, being the inner aspect of the former. As here used public opinion means the opposite of mob-impulse, which is a manifestation of unreasoning instinct. Public opinion, on the other hand, is a more or less intelligent belief entertained by a social group, and usually reached as a result of at least a minimum of reasonable conference. Supervision by public opinion is thus intelligent supervision, and the control exercised over the individual after this fashion is the basis of what will be called the insight element in conscience.

Control by Public Opinion. — Public opinion with regard to conduct grew out of the instinctive attitudes towards conduct already discussed. Plainly so, for the conduct that all spontaneously attack is the conduct that all will condemn, and the conduct that all spontaneously reward is the conduct that all will approve. But while instincts are the germs out of which adverse and favourable public opinions grew, public opinion developed far beyond instinct, and is developing still, chiefly, no doubt, in the way of specification and filling out with detail, but partly also in the way of correction. And reflective supervision in fact grew up after two somewhat different fashions. Each member of the group came to see either that egoistical individuals had their hands, potentially at least, against *all others*, or else that certain types of conduct and character were dangerous to the *group* itself, which meantime had been personified.

Some actions are so plainly dangerous to all that none can escape so conceiving them. The man who deserts his responsible post as sentinel and the man who secretly appropriates the possessions of his fellows perform actions of this kind, and moreover manifest a character that is a constant menace to all, being likely at any time to issue in repetitions of the injurious actions. Regarding such clearly dangerous types of conduct and character, there was sure to grow up an unfavourable public opinion, that both coined opprobrious terms to characterize them, and caused all knowing of the deed to turn on its agent with overt actions of retribution, or, where that was still possible, of restraint. In early England, and in other communities where horses and cattle constituted the chief movable property, the words "stop thief!" were a signal to all who heard them to join in the hue and cry; they were a warning to the community that danger threatened all, and that all must unite to meet it.

And, on the other hand, one of the first things that earliest man personifies, after the fashion already made familiar, is the horde or group of which he finds himself a member. Besides the fact that his social instincts lead him to work for its maintenance and protection, it is commonly conceived of as founded by and under the protection of some deified ancestor or other god, and both facts aid towards personification, and aid in arousing the devotion of individuals for the group. And this devotion to the group is further intensified by the evident interest of each member in its welfare.

All members of the group are thus alert to discover the types of conduct and character that benefit and injure the group respectively. Naturally the members of the group will not always agree. But the similarity of their instincts and circumstances will enable them to agree in the most important and obvious cases, and in these cases individuals who perform actions thought beneficial will find

themselves encouraged and rewarded by the whole group, while those who perform actions thought to be injurious will find themselves thwarted and punished, also at the hands or with the concurrence of the whole group. And, of course, as time goes on, and if the group progresses, it will pick out beneficial and injurious actions with increasing discernment.

A special case of the supervision of voluntary action in the interest of society is offered in the action of leaders. Partly instinctively, and partly through insight into the wisdom of the practice, the members of human groups have always followed leaders, and demanded that others should do the same, under pain of the common displeasure. Of course leaders are never absolute, but, within more or less well-defined limits, obedience to them is practised and demanded. In the case of trusted leaders the whole group demands loyalty on the part of each member to the plans and policies devised. For leaders too set to work devising plans and establishing policies for the benefit of the associations they lead. Most of the plans are of transient import no doubt, but others are farther reaching, and initiate modes of action and abstinence that rule the group over longer periods, in some cases permanently. As instances of relatively permanent modes of commended behaviour, initiated partly by leaders and partly by public opinion, may be mentioned the benevolence enjoined by the three greatest religious leaders, Buddha, Christ, and Mohammed, and the respect for law characteristic of the most advanced peoples.

The two main forms of public opinion and leadership are the politico-military and the religious. The two forms were not very clearly differentiated at first, but in time they came to act more independently, and indeed the preponderance of the one or the other, in different cases, largely decided the fortunes of early tribes and peoples. But the present concern is with earliest man, and no

attempt will be made to disentangle religious and political forces, the purpose being merely to give some idea of the influence of both.

Practically all the happenings about prepaleolithic men were alive with the deepest mysteries, and they caught at any straw of explanation that promised guidance. In the presence of political and military mysteries — unexpected alliances, great victories, crushing defeats — they resorted for explanation to continued assistance or punishment by dead rulers, and gave thanks or made expiation much as they would to living rulers. In the presence of storms, floods, pestilences, and other natural disasters, or unusual pieces of good fortune, they resorted to nature-gods, and performed such rites, sacrifices, and other less distinctively religious actions, as, judging from the conceived characters of the gods concerned, were thought calculated to propitiate and please them. Beyond question in those early days there was the strongest incentive to behaviour believed to be desired by these ghostly powers, and by their living representatives. None but the boldest dared be guilty of conduct that would bring down their anger and vengeance, especially where the sin of the individual was supposed to entail, as it often was, the vengeance of pestilence, famine, or other public calamity upon the whole people. For with this expectation, human vengeance was sure to be added to that expected from the gods.

Thus to social instincts were added more or less intelligent public opinion and leadership, religious and political, aiming at socially beneficial conduct. Voluntary action and self-interest tempted the individual to seek escape from the exercise of social instincts that resulted in self-sacrifice, but the common will and the group intelligence united with social instincts to enjoin actions considered socially beneficial, to repress socially injurious actions, and to devise social actions for individual performance beyond what instinct provided for.

Rise of Conscience. — And now it only remains to point out that the germ of conscience is already present in each and every member of the tribe, in so far as he joins in voicing religious, political, or in fact any form of public opinion.

Approval and disapproval are favourable and unfavourable judgments on conduct, which, while heartily or personally entertained by the individuals making them, are yet felt to be more than personal, indeed are felt to be shared with all competent persons. The individual expresses his view, but also feels that he represents the views of all others worth considering. Now, conceive a horde of from thirty to fifty members, all turning in condemnation on an individual, and doing it, each and every one of them, freely, spontaneously, naturally, without any suspicion of reservation. Is it not evident that each would feel that he was voicing his opinion of the action, and would also feel that he was voicing the opinion of all others? Nor is it essential that all the group should be present, provided essentially the same action has been condemned by all before. If there is but one on-looker who witnesses an action that the group has repeatedly condemned to his knowledge, he feels that his condemnation voices the common judgment.

Again, observe that it is not different with the transgressing agent himself. When he performs, or is about to perform, an action of a type that he with his tribe has repeatedly condemned in others, there appears in him the reverberation of his tribe's condemnation, and included in it his own.

And so it is with obligation. The agent and all others have called on fellow-tribesmen for certain actions in the past. And, if the former is tempted by self-interest to omit such an action, there returns to his consciousness his tribe's demand with his own rolled up in it.

And finally, the tribe has held men answerable for cer-

tain trusts committed to their care. And each individual with such a trust holds himself to responsibility, as he and all have held others to responsibility in the past.

In short, with judgment present and will present in the individual, there is the possibility of common judgment and common will, and of that representative in the individual of common judgment and common will called conscience. Each member of the tribe is conscious of what he is doing when he favours a type of conduct, or opposes it, or makes a demand, or imposes a responsibility. He has will and self-conscious judgment. And all his fellow-members have will and self-conscious judgment. And, moreover, he knows when they agree with him, and is strongly impressed, because of his social nature, with the fact of their agreement. As a result, there is in the self-conscious individual that sense of the common will and judgment that constitutes conscience. *Conscience first arose with a consciousness of a consensus of opinion and demand with regard to conduct.*[1]

And of course this means that animals can have no conscience. For animals have no will and judgment, no common will and judgment, and no presence or awareness in consciousness of either. Indeed, this inability on the part of animals became evident as soon as it appeared that they were not agents, and could therefore have no idea of agency and no conscience.

Public Opinion and Conscience, their Analysis and Interrelations. — It will be readily observed that the influences operative in public opinion and conscience fall into two classes, which are generally opposed each to the other. These are the conservative influences and those that make for change. The first tend to enforce rigid adherence to

[1] As a common demand is made only when the interests of all, either directly or indirectly through the group, are thought to be affected, it will be readily understood why conduct instead of all action arouses conscience, as was seen to be the case in Chapter VI.

recognized types of social behaviour, and in general they are the instinctive nature of social actions themselves, their instinctive support by rewards and punishments, the customary character that social actions tend, as will presently appear, to take on, and the normally conservative powers of religion. The second class of influences tends to alter recognized types of action, either by substituting for them, or by setting alongside of them, new types enjoined on all by public opinion and conscience. Here it is that intelligence is at work, individual intelligence leading the individual to avoid disadvantage and seek advantage, and common intelligence perceiving advantage for the group in the example or precept of men who thereupon have a chance to be followed as leaders, and to initiate new customs and practices.

The interplay of the two tendencies is interesting. When man first becomes man his social conduct is purely instinctive. The instinctive social actions performed by his animal ancestors he also performs. But soon a difference appears. Men become conscious, more or less rapidly in the case of different men and of different social actions, that they are performing these social actions. And, moreover, the group comes to the same consciousness, and, in so far as public opinion supports these modes of behaviour, they become customary, *i.e.* all the members of the group practise them and demand that they be practised, and all know that all are doing so. Thus behaviour that was at first merely instinctive becomes customary, and later, if public opinion continues to favour it, it comes to be handed down among the cherished traditions of the group.

But, in the second place, as men become conscious of the social actions they have been performing instinctively or with but a dim consciousness, they in most cases tend to add to, to take from, in some way to transform the actions more or less notably, and they do so, either because

of interest in the group and desire for its prosperity, or because of self-interest, or because of differences of temperament consisting in modifications of the instincts affected. Of course the tendency to modify social behaviour, whether by force of example or by persuasion, appears first in individuals, and it may or may not be adopted by the group.

For here it is that the conservative influences and the influences that make for change encounter each other. It may be that the conservative forces are stronger. Then the individuals seeking to initiate the change may be treated as public enemies, *e.g.* as criminals, or they may merely be balked and thwarted and made to feel uncomfortable. Or, the forces may be more nearly balanced, and then, while the group may allow individuals to perform the novel actions if they so desire, it may not adopt them and enjoin them on all. Finally, it may be that the radical forces are the stronger. Then the modifications will be adopted by the group, the instinctive and customary social conduct will be transformed accordingly, and the modified customs will be insisted on by public opinion and conscience, and handed down as items of the traditional code of behaviour. Of course some modifications inevitably take place in time, and exist even among the most primitive men that we can investigate. But every customary item of the code has its roots in social instincts, though upon these roots there have been grafted modifications more or less important, due to the activity of human reason.

In any group there are, therefore, at all times, two opposed influences in public opinion, and the same influences in conscience. The first may be called the instinct-custom element. It consists of instincts which have become customary and of other customary items, which, however, were originally supplied by individual intelligence. The second may be called the insight element.

It is composed of proposed modifications and supplementations of the customary code, which, as mere proposals, may be adopted and become customary, as has happened to others before, or may be rejected.

And in the light of this discussion the interplay of public opinion and conscience becomes somewhat clearer, though the question has been discussed in the last chapter and needs little further consideration here. On the one hand public opinion has always largely moulded conscience, especially so far as public opinion is crystallized into custom, but always with the reservations that conscience may be imperfectly acquainted and impressed with public opinion, and that individual temperaments are far from being wholly plastic. But, on the other hand, individual consciences are the raw material out of which public opinion in moral matters is formed, and these consciences in their individuality tend, in the way just suggested, to alter and supplement public opinion. And so it sometimes happens that, though all consciences oppose him, the man of moral convictions stands out alone against them all, in full assurance that he is right and they wrong. And such a man may even oppose a sacred moral tradition to which all his fellows are fanatically devoted, well convinced that the heart and essence of right is on his side. This last is an extreme case of the insight element of conscience opposed to the instinct-custom element of other consciences, and possibly of its own as well, and in such extreme cases there are the essentials of a moral tragedy of the kind enacted in the executions of Socrates and of Christ. But of course there are cases where the individual conscience merely seeks to modify moral custom a little, it may be imperceptibly, and many cases where it merely seeks to carry out into detail the schematic outline of custom.

In considering the interrelations of public opinion and conscience, it only remains to point out explicitly that

public opinion, as the term has been used in this section, is but another name for public conscience. For public opinion has been considered only in so far as it is opinion passed upon social conduct or conduct disregardful of social custom, and besides it was explicitly shown that every individual who genuinely shared in public opinion so described was himself conscientious at the time. Of course there is public opinion on other subjects besides conduct, but that has not been under consideration. And, of course, public opinion with regard to conduct may be hasty and rash, and may even be grievously mistaken, but so, for that matter, may private conscience be.

§ 5. The Development of Group Consciences

Widely as the consciences of different groups and individuals belonging to the human family have come to differ, it is reasonably certain that the original consciences out of which they developed were very similar, and indeed that all belonged to the same type. For all consciences were developed out of instincts enforcing performance of certain social actions and abstinence from certain anti-social actions, and, as the whole of mankind is in all probability descended from one and the same species of non-human animals, it is equally probable that the instinctive sources of human consciences were all of the same type, and consequently that the earliest consciences were all of the same type.

But similar as consciences were when they first appeared, they did not long continue similar. Different groups lived in different environments, wandered into very different habitats, were ruled by leaders of various endowments, and in other ways and through other influences came to vary from one another in their characteristics, and among them in their consciences. Whatever the causes, of the fact of variation there is no doubt. Consequently there is no such thing as the development

of conscience. Rather are there different lines of development that the consciences of different groups followed. These must now be suggested.

Interplay of Voluntary Action and Conscience. — The last section has probably made it plain, and this will make it plainer, that, aside from happenings in nature over which man has no control, the interplay of voluntary action and conscience is what determines the fortunes of different groups of human beings. If in any group voluntary action, which is an intelligent force, was held in check only by blind social instincts, egoism disrupted the group, with the extinction of its members as a result, unless to be sure they were absorbed into other groups. Whenever any group continued long in existence, it did so because conscience, public and private, subjected egoism to control.

But it would be a mistake to infer from this that any conscience that happened to grow up insured the continued existence of the group in which it appeared. History knows of many peoples with consciences who have perished nevertheless, and anthropology gives evidence of many more. For group consciences are of innumerable kinds, as are the volitional endowments of groups, and the adjustments in groups of conscience and voluntary action. And in fact most of the endowments of conscience and of volition, and most of the adjustments of one to the other, have been unfortunate, so much so that they have either exterminated the groups in which they existed, or kept them stagnant and unprogressive, or sent them along unprofitable lines of development, or held them to such slow development that they were surpassed, and probably finally absorbed, by more progressive groups. In only a few groups have voluntary action, conscience, and their adjustment been such as to insure steady and healthful progress for themselves and for their groups. Let us consider some of the most typical kinds of volun-

tary action, of conscience, and of adjustment between them, first taking up the ineffective types, and then the effective. By doing so the development of consciences can best be studied.

Effective Will. — That groups cannot progress if their members are weak in will or unresourceful is little more than a truism, and besides is a corollary from the discussion in § 3 of the effects of the rise of volition. Such groups may continue in existence, for animals without any will continue to exist. But for them progress is impossible in general, and is equally impossible in respect to conscience, for stationary groups have stationary consciences.

Again, groups do not progress, and consciences do not develop, if these consciences are of any of the types now to be described. Each of the types may appear at any stage of development, whether at the dawn of human life, or at any subsequent stage, even the highest state of civilization to which man has attained.

Stagnant Consciences. — First, where conscience successfully undertakes unduly to oppose and restrict individual initiative, thus limiting conduct to two classes, the prescribed and the forbidden, and permitting the third class of the allowed, of conduct subject to individual prudence, preference, and caprice, practically to disappear, there progress is impossible. Volition being curbed and hampered in every field, it is equally curbed and hampered within conscience, with the result that moral initiative, the insight element in conscience, either does not appear at all or else is strangled into submission to rules and regulations. In any of the earliest human groups in which the insight element did not develop, whether owing to lack of resource and intelligence, or because of the restrictions imposed by conscience, conscience continued to exact precisely the same social actions and abstinences that were previously exacted by instinct, and these groups were ac-

cordingly held down to the animal level. And, while in groups in which the insight element existed for a time and then disappeared, leaving only the instinct-custom or code element, a higher development was reached by the groups and by their consciences, yet both came to a halt with the disappearance of insight, and thereafter developed no further. There is reason to believe that the majority of human groups and consciences have been of this type, their resourcefulness, non-moral and moral, being limited or being repressed by conscience, so that sooner or later they have become the slaves of custom and tradition.[1] For when this moral formalism gains control, it always tends to clinch its hold. Moral rules are more and more shorn of their flexibility, and more and more cumbered with detailed prescriptions, till the lives of men are rigidly ruled, not only in larger matters, but also in all the trivial details of manner, dress, ceremonial, etc. Under such conditions man's powers of initiative are bound about as are the feet of high-class Chinese women, and, as long as this state of things continues, normal development is impossible. Even if individual will is full of strength and resource, it is too much hampered by conscience, public and private, to achieve any useful results.

Radical Consciences. — A second type of conscience inconsistent with development is the weak type that inadequately curbs individual will, permitting prescriptions and prohibitions to dwindle to a minimum, while self-interest, preference, and caprice extend their rule over very nearly the whole of conduct. Under this type of conscience lawlessness prevails everywhere, and of course the rule of the instinct-custom element soon ceases to be generally observed and practised, leaving the insight element greatly in preponderance. Such a general weakening of conscience and dwindling of the instinct-

[1] Cf. Maine, *Ancient Law*, opening discussions in Chs. II. and IV.

custom element is equally fatal to the healthy development of conscience and of the groups in which this type exists. For from the point of view of the survival and vigour of groups, social instincts and customs are highly efficient forces. Considered in the large, they have been, as was insisted of social instincts in § 3, the chief factors making for survival and vigour. To be sure, they are not ideally efficient to that complex end, and they can be improved in detail, and indeed must be altered into adjustment to changing conditions, if their serviceableness is to continue undiminished. But when all this is admitted, it must still be insisted that every advancement must leave the main body of instincts and customs intact, proceeding upon them as a basis, and altering and supplementing them in detail rather than in substance. Human foresight and judgment, especially the foresight and judgment of early man, are decidedly limited, and in matters that rise above details they are inferior, in early man at least, to the wisdom of instincts and customs. Accordingly groups, especially primitive groups, which are constantly tampering with their systems of morality, attempting to improve them, are more likely to decrease than to increase their chances for survival and vigour. In how many groups this radical and formless type of conscience has existed, it is not easy to say. Little evidence of its existence in tribes at a low stage of advancement is found, and it would not be surprising if undeveloped groups in which it appeared were exterminated too soon to leave any trace of themselves. Besides, the rationalistic type of conscience is not very likely to appear till a comparatively advanced stage of intelligence and enlightenment had been reached, and it seems more probable that its presence is confined to higher barbarian and civilized peoples. Probably Athens about the time of Pericles and France during the great Revolution furnish the best examples in point; though fortunately the marvellous recuperative power, especially

the teachableness of the latter nation, give much promise of rescuing it from this the greatest peril of its history. There is little risk in the statement that a too rigid and conservative conscience is a moral danger that rather threatens primitive groups, while a too loose and radical conscience rather threatens advanced and rationalized peoples. At all events when a group's conscience is either too conservative or too radical, steady and continuous development ceases to be possible for it, inasmuch as its group begins to lose in vigour.

Perverted Consciences. — We have considered the cases where conduct is regulated which had better be left to individual initiative, and where conduct which should be regulated is left to individual license. In both cases conscience diminishes the group's chances for vigour and survival, and therefore for development. A third type of conscience inconsistent with development is the type that prohibits conduct that makes for vigour and survival, which prescribes conduct that diminishes the group's chances for vigour and survival, or which does both. Of course every conscience has to some extent retarded its group's progress or hastened its decline by its practice in drawing the dividing line between prohibitions and prescriptions, though serious instances of consciences of this type are probably less common than of consciences belonging to the two types before discussed. Conscience has chiefly retarded development, either by unduly curtailing liberty and initiative, or by allowing undue license. Still, cases of the third type have existed, and call for mention here. But they differ too much from group to group to allow of profitable discussion. Conscience has hampered development by all sorts of prohibitions and prescriptions, which it is as impossible as it is unnecessary to catalogue, or, indeed, to do more than suggest in this summary fashion. What can profitably be said of them can best be said under the next heading.

Social Vitality. — For the substance of the discussion so far can be summed up in three statements: groups that are unresourceful and have weak wills cannot develop; even groups that are strong of will and intelligent will not develop if their conscience, public and private, so supervises the voluntary actions of their members as not to increase the groups' vitality, or so supervises these actions as to diminish the groups' vitality; groups with strong will and intelligence will continue in steady and healthful development as long as their consciences increase the groups' vitality, *i.e.* their vigour as groups and their survival-power. These statements may seem complicated, but they really are little short of self-evident, and a short discussion will make their meaning plain.

Generally speaking, by a group's vitality is meant its ability and opportunities to survive, its efficiency and vigour, together with its resources. But fortunately the elements of vitality can be analyzed into more familiar parts, and thereby the conception can be made plainer.[1] For, still speaking very generally, there are five sources of danger for groups, and the ability and resources needed successfully to meet these dangers fall into five subdivisions. (1) Unreasoning nature (all of nature below man) may injure or exterminate a group and its members, either by direct attack, *e.g.* storms, diseases, or indirectly by failure of food or of other necessaries. The group and its members must have the natural resources and the abilities, *i.e.* the habits of action, that will enable it to increase what may roughly be called its physical strength and skill if it is to survive and develop. Most trades, and some professions and callings, minister to this end. (2) Each group has other human groups as its rivals, ready to interfere with its survival and vigour in various ways.

[1] For a fuller analysis see the chapter on welfare, though general welfare consists of social vitality and individual welfare combined, as will presently appear.

In primitive times, physical attack by groups on one another was all but continuous, and consequently military resource and ability was essential to development. In recent times, while military power is still necessary, other forms of activity are also needed. (3) There are not only natural but also supernatural powers taking part in shaping the fortunes of groups, and men have always, in their religious practices, sought to adjust themselves wisely to these powers. Evidently unwise behaviour in this department seriously affects human fortunes, while man probably has as yet but very imperfect ideas of the advantage that will come from wise adjustment. (4) Though at any time a group is strong in the three directions discussed, it may not continue so; danger may threaten it from the future. If it is to survive and develop, its numbers must be maintained, indeed increased by births, and its membership must be made up of stronger material, through the instrumentality of well-matched unions, and of efficient education. Activity in the family and in the school, in the broadest sense of the word, is what chiefly ministers to this result. (5) Finally, each group is in danger of internal disorganization. It has not vitality unless it is a strongly organized unity — not rigidly organized, or inflexibly organized, but strongly organized. There are many forces tending to disorganize groups, but a group with vitality holds these forces in check, and has them under control. In familiar terms, in order to insure vitality, the political life of a group must be healthy. These, then, are the parts of vitality, very generally described: resource and capacity for meeting physical conditions, adjustment to other human groups, to superhuman powers, and to the future, and strong organization. And any group has vitality which has capacities and resources — resources being at the command of groups with proper capacities — in these five directions, while the relative vitality of different groups

depends on their relative capacities in these directions. If, then, assuming will-power and intelligence, a group's conscience, public and private, so supervises voluntary action as to assist in and permit of the formation of habits of action that increase the group's vitality, as thus analyzed, the group and its conscience, will develop, otherwise neither will, at least neither will develop long and steadily, unless, to be sure, through some external agency, the type of conscience comes to be changed.[1]

To avoid possible misunderstanding, it should be pointed out that it is not necessary for all consciences, it is not necessary for any conscience to supervise action *with a view* to increasing the group's vitality, though normally such an end is at times kept in mind by some consciences. The present question, however, is not one of ends, but one of results. Provided the consciences of the group in fact so supervise action as to minister to vitality, it is, from the present point of view, a matter of indifference whether they do so consciously or unconsciously. The problem of the supreme end of morality will be discussed in the next chapter.

And it may also be pointed out that it is not necessary for all individual consciences to minister equally to the vitality of the group in all directions, in the industrial, the religious, the family, and in all other directions. Evidently it is not necessary for each individual's conscience to exact of him action promotive of vitality in all directions; in view of the economy of the division of labour, such a course would not maximize the vitality of the group. And it is also evident that it is not promotive of vitality for every individual to have a conscience equally active in all directions. One man is better informed about religion, and there it is conducive to

[1] If the conscience improves its type through internal agency, it might be apparently and temporarily, but would not be genuinely, of the type described.

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vitality that his conscience should be especially active; another is better informed about warfare, and there it is best for his conscience to be more than usually active; another is better informed about education, etc. In other words, vitality is best promoted when all individual consciences efficiently minister to it in their *coöperative supervision* of conduct. More briefly, development is healthiest when the public conscience, in its organization, in its emphasis, and in its toleration, most efficiently ministers to vitality.

We see then that many consciences have throttled resourcefulness, and have accordingly repressed development in themselves and in their groups; that others have disregarded the wisdom of tried practice, and have so disarranged and disorganized themselves and their groups as to make progress impossible; that others have perversely favoured devitalizing and opposed vitalizing conduct, and thus brought various calamities upon their groups and checked healthy advance; and finally, that a few, a very few, have properly proportioned law and liberty, and properly apportioned prohibitions and prescriptions, increasing their groups' vitality steadily, wholesomely, surely, and thus insuring continuous development in all fields, moral and non-moral, from savagery, through barbarism, up to civilization that is still advancing. And all these results can be summed up in a sentence: assuming strong will and intelligence, a healthily developing public conscience steadily increases vitality, while a public conscience that does not further vitality holds down both itself and the group in which it exists.

Individual Welfare. — So far the increasing service rendered by healthily developing conscience to social vitality has been discussed, but nothing has been said of any solicitude on the part of conscience for individual welfare, or of any service to individuals. Even on the

surface this is surprising, as it is commonly held to be a duty to serve others if not to serve one's self also. And in fact a more careful consideration will compel the conclusion that conscience is concerned for the interest of individuals as well as for the vitality of groups.

First note that what corresponds in animals to conscience in man, the instinctive encouragement and discouragement of social and anti-social actions respectively, does not directly serve individuals. The conduct which strengthens a group or a species in the struggle for existence is the conduct that these instincts tend to favour, and such conduct tends to prevail. But in so far as conduct is merely of advantage to the individual, and has no effect on the survival of a group or species, it in no wise tends to prevail. Mere natural selection has no concern for individuals, the supervisory social instincts of animals minister only to the vitality of groups and species.

But with man it is different. For interest in persons may be called a by-product, incident to the qualities that essentially characterize man. As a self-conscious being man is aware of his sufferings and failures, of his pleasures and successes as his, and as a being with will he undertakes to avoid the first and to secure the second. If animals are to become self-conscious, they must also become interested in their own welfare. But more is true. In addition to self-consciousness, and interest in self, man is conscious of others as self-conscious agents, and of what they as such are conscious of, whether it be suffering, failure, pleasure, or success, and moreover he is interested in the welfare of others. And nature seizes upon this consciousness and interest, and uses it for her own purposes, metaphorically speaking of course. There is, namely, no force so efficient for cementing society together as sympathy, interest of each individual in all others of the same group. Acts of self-sacrifice that strengthen the group, but that selfishness cries out against,

are cheerfully, it may be enthusiastically performed, when prompted by sympathy. It thus happens that groups made up of mutually loyal and sympathetic members have an advantage, through solidarity, in their rivalry with other groups. And as sympathetic interest in the happiness of others broadens to take in larger and more varied bodies of men, groups increase in size, and thus gain an added advantage. But this spreading out of interest in others is very slow. Savages and even barbarians have too little knowledge and imagination of the experience of others to sympathize with them at all effectively. And in fact they look on very great suffering wholly unperturbed. Suffering, agony even, does not seem to strike home to them, and they do little, it may be nothing, to relieve it. One of the distinguishing characteristics of dawning civilization is a very large increase in interest in individuals. Men then come to have an effective interest not only in their country, but also in their countrymen, becoming concerned, first to succour them from suffering, next to increase their happiness, and ultimately to add, partly by removing restrictions and partly by giving positive aid, to their welfare in all directions instead of merely in the direction of happiness. And as civilization advances the interest broadens, till at length the time comes when there is interest, not only in fellow-countrymen, but in all human beings. And finally the welfare of all sentient beings, animals as well as men, awakens the interest of man.

But if interest in self and others were merely strong enough to cement groups together, and thus to increase their vitality, it would have no title to separate mention here. In fact it is stronger than that, not merely in case of interest in one's self, where the fact is patent, but also in the case of interest in others. For in order that mutual loyalty and sympathy should operate in holding societies together, it is necessary that the kindly feelings should be intensified, and that the imagination should be greatly

strengthened. And when the feelings and the imagination are once aroused to the presence of pleasure and prosperity, pain and adversity in others, the intrinsic attractive and repulsive power of these experiences operate of themselves, and impel men to a solicitude for others quite independent of and, in many cases, in greater intensity than what would be called for by the needs of vitality. Indeed, among "sentimentalists" sympathy often leads to behaviour that diminishes vitality. And besides, after the sense of justice is somewhat developed, and after some reflective consideration is given to the problem of duty, conscience finds it impossible to deny that the welfare of the individuals coöperating together for vitality is an end intrinsically worthy of service. It thus happens that the interest in persons, that was made possible by man's self-consciousness, and was first developed in him because of its service to social vitality, later entered upon an independent development of its own, and was supported by the sense of justice present in the conscience whose biological function consists in ministering to vitality.

And it of course follows, as a result of man's natural and conscientious interest in the welfare of self and others, and finally of all sentient beings,[1] that some alteration should be made in the prohibitions, prescriptions, and allowances of conscience. For, in so far as they are interested in themselves and others, men will unite in refusing to enforce regulations that ruthlessly disregard the welfare of individuals, however promotive of social vitality the regulations may be, and in applauding and approving modes of behaviour and regulations that are thought to serve individual interests, even though they decrease social vitality. In addition to guarding social vitality, conscience, as it develops, keeps individual welfare in mind.

Social Welfare.— It thus happens, that while conscience,

[1] Interest in undomesticated animals of no service to man is a good instance of the independent development of interest in happiness.

public and private, was at first careless of individual interests, and serviceable chiefly to social vitality, it came, owing to the growth of self-interest and sympathy, to consider individual interest as well as social vitality, and next to consider the former as much as the latter, till now, in the most advanced nations at least, conscience tends to cherish social vitality largely as a means to the welfare of the individual members of society. This is far from meaning that social vitality is no longer ministered to by conscience. For, in the first place, the welfare of individuals would be diminished by any considerable decrease in social vitality. And, in the second place, the framework of the moral edifice was constructed during the early days when conscience confined itself to its original biological function of serving social vitality, and that framework, however much it may be adapted to later conditions in the interest of individual welfare, must needs continue its office of maintaining social vitality. But it is true, that while the ultimate effect of the activity of conscience, public and private, at one time was to increase social vitality, the ultimate effect of that activity now is to increase both social vitality and individual welfare, and the tendency is to serve the latter even more than the former. Of course service of social vitality is characteristic, as it always has been, only of the societies that are becoming more powerful in the five directions before discussed. Moreover, it is probably more accurate to say that conscience undertakes to serve the interests of the members of society, than to say that it actually serves those interests, since attempts at service in that direction are by no means always successful. But the growth of moral interest in individuals at the expense, though not to the diminution, of moral service of social vigour, is a fact plainly to be read on the surface of history. And it is interesting to note in passing — the problem of the supreme end will be discussed in the next chapter — how much more

clearly defined the purpose of conscience becomes when individuals are substituted for society as the ultimate beneficiaries of moral action.

Accordingly, as civilization advances, it may be said that developing consciences come to minister to the vitality of groups and to the well-being of their members, and that the latter ministration tends to grow greater as compared with the former. Without forgetting the last statement, it will be convenient to use social welfare as the designation for the combination, a shifting one to be sure, of social vitality and individual welfare. Of course the welfare of a society depends in part upon its power to protect and strengthen itself as an organized unity, *i.e.* in part upon its vitality, and in part upon the welfare of its members. The term "national welfare," though narrower in meaning, will be found to be a useful synonym for social welfare.

Human and Sentient Welfare. — In and among developing nations, another tendency may be noted, a tendency of considerable interest. Owing to the growth of reasonableness and humane feeling, and of ability to work together harmoniously, groups grow fewer and fewer, larger and larger, and more and more interrelated. The dominant nations of the world are now the largest ever seen, are very few in number, and show each other a mutual consideration unknown in past history. The first two facts are familiar, and the last will be further discussed in the chapter on benevolence. As will there appear, at first any treatment of hostile groups and their members was thought fair. But as groups advanced from savagery to barbarism, ruthless injury of other groups and cruelty to their members grew less common and less severe. And as barbarism changed into civilization, the rights of other groups and their members came to be recognized; first rights to immunity from injury under conditions specified with increasing humanity as civilization advanced, later

rights to aid and assistance "in the name of humanity." It has thus come to pass, that while each of the more highly civilized nations seeks to protect and advance its own interests — it is, of course, a part of humanity, and the part it can best serve — its public conscience restrains it in large measure from injuring other nations, and indeed calls upon it, at least in times of great need, to assist other portions of humanity. In short, coöperation, through the supervision of conscience, for the welfare of the group, becomes coöperation for the welfare of groups increasing in size, and is tending to become coöperation for the welfare of humanity, indeed of the whole sentient creation. This has been the course of development in the past, and there is every reason to believe that it will continue in the future. The movement may be very slow, or it may become greatly accelerated, but in all likelihood it will continue. There is economy in the substitution of peaceful organization for hostile rivalry, and that alone insures the continued movement, were it not insured also by the growth of the many forces that make for the increase of humane feeling. If it cannot be said that conscience as yet serves the welfare of mankind, or the welfare of all sentient creatures, that it serves human or sentient welfare, it can be said that, if the present tendency continues, human and eventually sentient welfare will come to be the ultimate end that inspires all moral activity.

§ 6. Summary

Looking for the origin of conscience, and having reason to think that it grew out of some of the qualities characteristic of man as distingnished from other animals, an investigation was set on foot with a view to discovering those qualities. The result of this investigation was the discovery that will-power differences man from other animals. Looking then for the results of the appearance of volition, it was seen that while it gave rise to thinking,

tool-making, and religion, all in the main helpful activities, it also gave birth to intelligent egoism, which tended, if unchecked, to destroy man's chief resource for survival, viz. the associated state. But here it appeared that conscience, public and private, developed out of social instincts and volition, and that, putting an intelligent check on intelligent but egoistic volition, it preserved the human species from extinction. Conscience, however, has not always been wise in its supervision of conduct; indeed, in most cases its supervision has been such as to prevent the development of its group, and therefore its own development, either from the beginning, or else after the development had proceeded but a short distance. But the vitality of a few favoured groups was steadily and healthily increased by their consciences, and these groups and consciences have developed up to the present time, and seem still to be developing. On further investigation, however, it appeared that it is not social vitality alone that conscience favours in these fortunate groups. In addition to being favoured by conscience because of its contribution to cohesive association, and therefore to vitality, individual welfare came to be favoured because of its intrinsic attractiveness, and because of its reasonableness as an end. And it thus turns out that the combination of social vitality and individual welfare, *i.e.* that social welfare is what is ministered to with increasing efficiency in proportion as conscience is progressive, and that, of the two, individual welfare tends to be more solicitously ministered to than social vitality. Finally, in view of the increase in size, the decrease in number, and the closer mutual relations of sovereign states, and of the growth of solicitude for animals, the tendency is for human and even for sentient welfare to become the ultimate end of moral activity.

PART II

OBJECTIVE MORALITY

CHAPTER IX

The Constitution and Criteria of Objective Morality

§ 1. Introduction

The main task of Ethics, it will be remembered, is to discover what morality and immorality really are. Starting with the hope that possibly morality might consist in following conscience, it was found that while to follow conscience is to act morally, yet such morality is generally imperfect and subjective, because consciences hesitate, differ, and err; what perfect or objective morality is, no conscience by itself can tell. At the same time it appeared that conscience is the only witness as to the nature of morality, and accordingly a careful study of the nature of conscience was undertaken, with a view to discovering the trustworthy deliverances of conscience, and of distinguishing them from its untrustworthy deliverances.

That task is now completed, as far as space has permitted. Subjective morality has been investigated, and an attempt has been made to explain the nature and function of conscience as a biological phenomenon. How far the undertaking has succeeded the reader must judge.

The task of Part II will be to give as full a description as possible of objective morality. In this chapter, on the basis of the conclusions reached, the supreme or ultimate end will be described, and then the trustworthy deliverances of conscience will be distinguished from its untrustworthy deliverances, both in general terms, leaving it to

subsequent chapters to fill in the outline descriptions given.

§ 2. The Ultimate Purpose in Moral Action

Towards the end of the last chapter a problem was considered which is very similar to the one now to be discussed. And because of the similarity the two problems are likely to be, and sometimes are, confused. But in fact they are quite distinct. Then the question was, What is it that developing consciences accomplish in their coöperation, and tend to accomplish with increasing effectiveness? and the answer was that they preserve and increase the welfare of the group, which approximates, as they develop, to human, and eventually to sentient, welfare. But now the question is not, What in fact does conscience accomplish? but, What is the end, the aim, the purpose of conscience? or, if there are many ends, What is the wisest, most comprehensive, and least arbitrary end for consciences to adopt? What is it that is best worth the while for moral men to undertake to achieve by their coöperation? This is, stated in our own words, the problem that is more familiarly known as that of the *summum bonum*, the supreme end, or the good. For the present it will be discussed in very general terms, in order that the results attained in the last chapter may be used while they are still fresh in mind, and in order that the conception to be reached may be made use of in the next five chapters. In Chapter XV the problem will be taken up again, and gone into as fully as the limits of the present book will allow.

Normative Consciences. — The first fact to be noted is, that until a considerable development was attained no consciences accepted a single end, and that even now only a few, if any consciences, accept such an end in their ordinary operations. Most consciences have many aims, not one. These aims, as has fully appeared, are largely

in harmony in consciences and among consciences, and probably are growing more so, but of this harmony their possessors are either not at all aware, or are but dimly aware.

And such a state of things is only natural. Conscience developed out of a number of social instincts unconscious of their function, and it has all along insisted on actions and abstinences each for its own sake, and because of the individual appeal each has made. Savages demand a degree of truthfulness, of filial obedience, of religious ceremonial, and of other forms of virtuous conduct. In the same disconnected way barbarians demand devotion to family, to Church, to the reigning dynasty, to industrial forms and customs, etc. And even to-day among the highly civilized it is not much different. We demand honesty, truthfulness, courage, temperance, benevolence, etc.; we also demand devotion to family, to Church, or at least to religion, and to State. But for the most part we are not conscious that all these are indirect demands (the last only being direct) in the interest of national or human welfare. When a man supports an ungrateful family, pays his debts, or makes a humiliating confession in the interest of truth, he probably has little thought of the general good.

And this situation, it may be pointed out, is what constitutes the truth of dogmatic intuitionism.[1] Men do approve and demand certain kinds of conduct, like honesty, etc., each seeming proper in itself. And probably it is no great stretch of language to use that word of many meanings, and say that they do so intuitively. At any rate, the demand does seem and feel objective, because of the nature of conscience and because all civilized men support each demand, and it is not always easy to give satisfactory reasons for it.

Teleological Consciences. — But, on the other hand, from

[1] Vide Ch. III, § 1, note.

the time when morality first began to claim attention, men have declared that there is some one thing that is of supreme worth, and they have tried to discover what this is. The more thoughtful observers at least have been convinced that conscientious men do not work at haphazard and at cross-purposes, some tearing down what others build up. They have been convinced that all moral men have, in the last analysis, the same purpose, or, at all events, that they could be brought to agree on a common purpose to be coöperatively achieved. This conviction it is that has given birth to teleological theories of conscience, which in part attempt merely to describe what the supreme aim of conscience in fact is, and in part undertake to decide what is the wisest and most reasonable supreme end for conscientious men to accept.

Neglecting for the present the distinction of the last sentence, these theories of the end fall roughly into two classes, eudemonistic theories (from *εὐδαιμονία*, the Greek word for welfare) and perfectionistic theories, the former maintaining that the purpose of moral men, as such, is to achieve welfare, the latter that their purpose is to achieve perfection. Moreover, from the time of Socrates downward, there has been no time when either theory lacked representatives to urge it. Indeed, not alone in theory, but in practice as well, there have always been eudemonists, and there have always been perfectionists. This is an important fact to note. And another important fact to note is, that the greatest moralists, Socrates, Plato, and especially Aristotle, Kant, and Butler, have maintained that the good is complex, being a combination of welfare and perfection.[1]

These facts are important to note because they fall in with and support the conclusions reached in the last chap-

[1] Consider also Sidgwick's division of theories into the hedonistic, a species of Eudemonism, and the intuitional, which are closely allied to Perfectionism. Cf. also the discussion in the chapter on welfare.

ter, that individual welfare and social vitality have both been fostered by developing consciences. For the conclusion that individual welfare is fostered by conscience agrees with the eudemonistic theories, the conclusion that social vitality is fostered substantially agrees with the perfectionistic theories, and the conclusion that the combination of both, or social welfare, is fostered substantially agrees with Aristotle, Kant, Butler, and Sidgwick. These agreements may now be briefly explained.

To be sure, the last chapter concluded merely that consciences *in fact* further individual welfare, while eudemonistic theories maintain that consciences, above all things, *seek* or should seek to further it, and in so far the conclusion and the theories do not agree. They mutually support each other however, for eudemonistic theory would hardly have arisen and have been so persistently maintained if consciences had not in fact fostered individual welfare, while the fact that consciences foster it would of itself have all but compelled such a theory, as soon as men raised the question of the supreme end. Again, at first eudemonistic theories maintained that the end of each moral man was his own welfare, and only since the rise of Utilitarianism has it been at all generally believed that the good of all, "the greatest good of the greatest number," as it is usually called, is the supreme end. Still it is natural that the fact in all its spread should not be grasped at once, and it is significant that since the first statement of Utilitarianism, it has been speedily and all but universally accepted.

But it may be thought that there is little in common between the conclusion reached in regard to vitality and perfectionist theories. It should be remembered, however, that perfection, including, as it does, benevolence, justice, truthfulness, honesty, etc., consists largely, if not entirely, of perfection in social serviceableness, and that, if all men brought their powers to the pitch of perfection, the vitality or strength of mankind would be at its maximum. In short,

it should be remembered that social vitality in large part consists in a large development of individual perfection. Vitality and perfection are not identical, but, once more, perfectionist theories would not have arisen if consciences had not fostered vitality, and were bound to arise in view of the fact that consciences have fostered vitality.

Finally, the persistent existence of both theories of itself suggests that conscience fosters both individual welfare and social vitality, *i.e.* that it fosters social welfare; and the conclusion reached in the last chapter, that conscience fosters social welfare supports, as far as such evidence can, the view of the greatest moralists, that the supreme end is complex, and includes individual welfare and social vitality or perfection in combination.

And now it is time to raise the main question, What, if anything, do all consciences accept as the supreme end? And the first part of the answer is, that they accept neither individual welfare without social vitality or perfection, nor the latter without the former. This is suggested by the conclusions reached in the last chapter, and becomes all but unquestionable in view of the persistent existence of eudemonistic and perfectionist theories, and of the complex theories of the end advocated by the greatest moralists. The end, if there is one end, is complex.

But when, following this suggestion, it is asked, Is the general welfare then the end that is in fact accepted by all consciences? the answer must be in the negative. As consciences develop, welfare tends to be fostered with increasing efficiency, but all developing consciences do not now accept it as the supreme end, and it may be that the time will never come when all consciences will accept it as such. So much has been partially admitted in the statement that most consciences are of the normative rather than of the teleological type, and full admission will be made if the statement is applied to the future as well as to the past and present.

And the fact that the general welfare, like any other comprehensive end, can best be served if it is indirectly served, does not entirely explain away the normative character of practically all consciences. No doubt, as pleasure "to be got must be forgot," as self-support can be compassed only if attention is mainly directed to self-supporting action rather than to the end itself, and as, in general, ends can best be attained when the means that lead to them are concentrated upon, each at its appropriate time, so sentient welfare can best be ministered to when benevolent, just, honest, and other actions that make for it are each, on appropriate occasions, performed for their own sakes. But while this fact explains very well the possibility of coöperation to foster welfare without the consciousness thereof, it does not explain the entire ignorance of the existence of any one supreme end that is characteristic of all uninstructed consciences, nor does it explain the persistent and unreconciled difference between eudemonists, perfectionists, and believers in a complex end, differences that are much greater than have so far been suggested, for under each head there are many more or less conflicting theories. If all consciences had one and the same purpose it would not be very difficult to bring the fact to consciousness, nor would differences on the subject be so interminable. For a purpose or end is emphatically a fact of consciousness. To have an end or purpose and not to be conscious of it, is nothing less than a contradiction in terms. And when all is said, it must therefore be admitted that consciences are normative and not teleological.

The Wisest and Most Reasonable Ultimate End. — But, it will be remembered, two courses are open in discovering the supreme or ultimate end. The first is to discover what end all consciences look upon as ultimate. An attempt was made to follow that course, but it has just resulted in failure, because it was found that there is no one ultimate end that all consciences accept. The second course is to

discover what end is the wisest and most reasonable for all consciences to agree upon, and to coöperate in attempting to further. Trial will now be made of that second course.

And first observe that the teleologists were probably right in holding that there is some object of supreme worth for mankind, if fortunately it can be found, and that they are certainly right in maintaining that the problem must be faced and decided, for the reason that it cannot be shirked, especially in view of the conclusion reached in the last chapter. According to that conclusion, consciences do in fact minister to the general welfare, and moreover tend to concentrate their energies more and more on that ministration. The sum of what consciences accomplish is to minister to the welfare of all sentient beings, and, unless the course of things is interfered with, this ministration to sentient welfare will increase rather than diminish. It is not possible longer to continue groping in the dark. The veil has been lifted, conscientious men know what they are doing, and they must decide whether it is well to continue along this course, or better to substitute some other procedure. Is sentient welfare the most reasonable end? And if not, what more reasonable end is to be substituted for it? These are the questions that must be answered, if morality is to be more than a drifting we care not whither. If welfare is the most reasonable end, all moral men are called upon to further it as wisely as they can. If it is not, they are called upon to discover and to further the end accepted in its place. Those who have no substitute for welfare, will inevitably continue to serve that end. Those who have a substitute must be prepared to prove that it is a wiser end.

In order to avoid confusion, the grounds upon which most evolutionists would urge the acceptance of welfare as the ultimate end, provided they thought that consciences further it, and tend to further it with increasing efficiency,

had better be explicitly stated. They would accept it, namely, because, as they argue, welfare is the goal towards which evolution is working, because, as they would hold, natural forces are evolving a race whose consciences will effectively serve sentient welfare, and as consciences of this type are to be the final achievement of evolution in this field, therefore this type of conscience is the highest and the most authoritative. This argument of many evolutionists is explicitly stated in order that it may be as explicitly rejected. It is an illogical attempt to argue from the "is" to the "ought to be," a fallacy so obvious that explicit statement suffices to disclose it. Or if the fallacy is healed by supplying a suppressed premise, this premise is readily seen to be untrue, for it is to the effect that the last stage of an evolution is morally superior to the first, and to any stage prior to the last. As against this premise the evidence is ample. Individual consciences are not always best at the time of their possessors' death. National consciences are not likely to be best when their nations go down in dissolution. And again, the consciences of any present-day savage tribe or barbarous nation have as much right to be called the flower of evolution, when evolution is regarded merely as a natural process, as have the consciences of the most civilized nations. The last, as such, is neither more nor less authoritative than any other stage of natural evolution; position in time has nothing whatever to do with authoritativeness.

Sentient Welfare. — But there are two valid and sufficient reasons for regarding the welfare of all sentient beings as the most reasonable end for moral agents, and these may now be suggested in turn.

In the first place, the fact that *objective* morality is under discussion fixes the ultimate end. For to speak of objective morality is to speak of a system of conduct that is to be imposed, as far as possible, upon all beings capable of conduct. Accordingly the system of conduct contem-

plated is to be obligatory upon all mankind, and, allowing that modifications will be allowed in the case of animals, they will be made to *do* their share, and will of course be *given* their share in return. In a word, objective morality contemplates a vast coöperative enterprise, by means of which all who are capable of coöperation are to employ their energies for some common end — the end must be a common end, or else there would be no coöperation. At first individuals coöperated within their respective groups, but these groups have grown in size and become interrelated, and now all men and animals, in so far as they are moral or at least fall in with moral plans, coöperate together for some plan. And, as soon as this is seen to be the nature of objective morality, it at once becomes evident that the common interest or well-being of all without exception must be the end. No reason can be given for considering the interest of any beings besides those who take part in the coöperative undertaking, though reasons can be given for treating other beings properly.[1] And it would be equally arbitrary to disregard the interests of any beings, whether animals or men, who made common cause with moral beings. No reasons whatever can be given for serving the interests of either more or less than the entire membership of the moral universe, and fully sufficient reasons can be given for serving the interests of the entire membership.[2]

And again, service, furtherance, purpose, even end, are words whose meaning is coterminous with sentiency. Service means, and only can mean, service to sentient or

[1] Microbes, wild beasts, criminals, may be conceived of in some cases as beings who take no part in the coöperative enterprise. It may also be suggested, that if it should be found, with the growth of knowledge, that departed spirits, angels, or any other beings, at present more or less hypothetical, are coöperating with mankind, and further that it is possible for mankind to coöperate with them, morality would stretch to include those beings.

[2] At least all whose interests can be served with any intelligence.

conscious beings. The only interests that can be furthered are the interests of sentient or conscious beings; no other interests exist or are conceivable by us. Purpose and end have no intelligible meaning except to designate something that can be experienced, or at least conceived, by some conscious being. Thus the only possible end is some kind of experience, which may be either perceptual or conceptual, for some conscious being or beings. And, in view of the fact that there is every reason for considering the interests of all sentient beings, and no reason for considering more or less than all, sentient welfare would seem to be the most reasonable ultimate end.[1]

§ 3. The Criteria of Objective Morality

Of course the leading criterion of objective morality is the ultimate end, sentient welfare. Whatever conduct at any time best furthers that end is objectively moral, and whatever conduct falls short of thus serving the end fails of perfect morality. But, in addition to knowing the end, it is desirable to know something of the kind of conduct that best serves it and is therefore objectively moral.

[1] Though not, strictly speaking, a logically sufficient reason for considering sentient welfare the ultimate end, it is worth mentioning, that, as service of sentient welfare has grown, wisdom has grown, and as wisdom has grown, service of sentient welfare has grown, and consciences have, and, as far as can be prophesied, will in the future, come to accept sentient welfare as the ultimate end with increasing consciousness and conviction. Plainly the races that have developed furthest, and that are possessed, among other things, of the greatest intelligence and learning and of the soundest practical judgment, are the races that have served sentient welfare most efficiently, and have come nearest to accepting it consciously as the ultimate end. It may be said then that the wisest human judgment so far evolved has come nearest to accepting sentient welfare as the ultimate end. And it may be inferred that the wiser judgment of the future will fully accept it as the end; in any event, if sentient welfare comes to be rejected and neglected by the most advanced nations, they will begin to deteriorate, in wisdom as in other qualities, and their judgment will become less authoritative. But speculations of this kind are rather precarious, and are chiefly of curious interest.

Whatever can be done in that direction will be a further accomplishment in the way of defining and describing morality.

First taking up the problem in general, it will be evident that no conscience is infallible. All have made blunders in the past, all make many to-day, and no doubt all will continue to do so, though it is to be hoped they will do so in diminishing numbers and importance. But though supremely resourceful and helpful up to now, the present moment may witness the growth in any conscience of tendencies that will seriously diminish its service to sentient welfare.

Serviceable Consciences.—At the same time a conscience is trustworthy in proportion to the services it has rendered. Provided there are no signs of incipient decay, the consciences of the races that are stanchest, most resourceful, and strongest are the most trustworthy consciences that exist in the world. On the whole, no other human consciences, and observation is of course limited to human consciences, give such trustworthy indications of the actions to be demanded, forbidden, and permitted, and in attempting to find the criteria desired, these are the consciences that will repay the largest amount of study. What has to be discovered is what parts of these consciences are reliable and what parts are relatively unreliable.

Trustworthy and Untrustworthy Elements of Conscience.—The type of conscience present in successful races is made up of three parts. There is the instinct-custom element, a complex of two parts, and the insight or ideal element. There are therefore present in civilized consciences of to-day certain demands that have come down in the form of physically inherited instincts from our animal ancestry (though of course among men the demands are self-consciously, and not merely instinctively, made), other demands that have grown up among men to meet various practical

exigencies, and that are now hardened, to a greater or less extent, into tradition and racial usage, and finally demands, varying from individual to individual, from class to class, and from community to community, embodying private and unauthoritative opinions, called forth by concrete situations. There are no sharp lines of demarkation separating off the three classes of demands from one another, for, as will appear more fully later, customs are further specifications of instinctive demands, and insights the applications of both combined to concrete situations. The first block in the picture, the second add the salient lines, the last fill in the details.

Now the three classes of demands are trustworthy in the order of their mention; for it is in that order that they have been tested by their service to vitality and by critical human experience and judgment. Noteworthy among men as compared with animals is the small number of instincts present in the former. Man is born into the world singularly free from prepossessions as to the details of action; therein lies his unequalled capacity to receive instruction. Most of the original animal instincts have disappeared since man became man, and have disappeared either owing to their inability to maintain themselves against man's continuous struggle to escape from restrictions, or owing to the inability to survive of the groups in which physiological variation did not eradicate them. In either case, whether the disappearance of the majority of animal instincts was due to the inheritance of acquired opposition to them, or whether it was due to adverse natural selection, the disappearance of so many of them indicates the fierce struggle in which all have been constantly engaged. Moreover it indicates the exceptional vitality, the exceptional contribution to the strength and satisfaction of their possessors, of the supervisory social instincts that have survived through all the countless changes in human capabilities and in external conditions that have attended the

progress from lowest savagery to highest civilization. Demands that have been unremittingly reiterated under circumstances and by men so infinitely various and so continuously increasing in prosperity cannot but be for actions that are, so far as can be seen, permanently and immutably promotive of sentient welfare. It is not easy to conceive of stronger evidence for the secure morality of a type of action than its continuous furtherance of the supreme ideal throughout the course of human experience.

The trustworthiness of customary and traditional demands is very various, but in some cases is as great as that of the instinctive demands. It may be ascertained by applying similar tests. In general the trustworthiness of these demands depends upon four conditions: (1) The prosperity of the races by whom the demands are made; (2) the number of prosperous nations differently circumstanced by whom they are made; (3) the length of time during which and consequently the variety of circumstances under which they have been made; and (4) the continued essential invariability of the conditions surrounding the actions demanded. When all four tests are satisfactorily met, a merely traditional demand has all the authority of the demands that were originally instinctive.

Regarding the demands due to insight, little need be said. That they are indispensable is known from the fact that welfare is furthered only by consciences that have both the instinct-custom and the insight elements. That they are indescribable is evident from their variability and variety, and in general from the accounts that have been given of them in several places. And as to their reliability, that will be as fully discussed as possible in the chapter on wisdom, and all that need be said now is, that it depends mainly on the honesty, good sense, and experience of those in whom any moral insight appears.

§ 4. The Cardinal Virtues

In using the criteria laid down in the last section, no attempt will be made to distinguish between trustworthy instinctive and trustworthy traditional elements of conscience. It would be very difficult to do so, inasmuch as the latter are not distinct and separate from the former, but are merely specifications of them, and it is not necessary, inasmuch as traditional demands of long standing that exist in races enjoying the greatest welfare are as trustworthy as instinctive demands. Those demands of conscience will be considered trustworthy that are insisted on by the leading peoples, and that have been insisted on by their ancestors and by their moral teachers among other peoples as far back into the past as investigation will carry us. This test will satisfy the four requirements mentioned above.

There are a number of sources from which accounts of the trustworthy components of conscience, as thus defined, could be derived, but an account is furnished by the doctrine of the cardinal virtues in a form which is at once the most reliable, the most convenient, the most adequate, and the most compact, and that is the account that will be followed here. When each of the cardinal virtues comes to be examined in a chapter by itself, it will appear that in some form each has always been accepted by man, and besides something will be said presently of the reliability of the account given by the doctrine mentioned, and something of the adequacy and compactness of the account. As to its convenience, it need only be said that a virtue is a quality of character that insures the performance of objectively moral conduct; and that an account of morality in terms of character is much more fundamental and thorough than an account in terms of conduct. Character is the source from which voluntary actions spring, and while imperfect character may on occasion produce objec-

tively moral conduct, only perfectly moral character can be relied on for doing so. The doctrine of the cardinal virtue undertakes to give a full account of the perfectly moral character, and no better foundation could be found on which to build a theory of objective morality.

For the present introductory purposes the reliability of the doctrine will be sufficiently suggested by indicating the mention the cardinal virtues have received in ethical theory. Their first emphatic appearance is in Plato's *Republic*, where they are given under titles that are generally translated into Courage, Temperance, Justice, and Wisdom. Of course the virtues were not invented by Plato, but were discovered by him in popular thought among many others. But it was his rare insight, that further investigation will lead us to appreciate increasingly, that singled them out for discussion as constituting the central core of morality. Since Plato's day his theory has been currently known, or at least the virtues mentioned have separately been more or less emphatically held up as cardinal, and thus they have been submitted to continual tests, both by popular opinion and by ethical theorists. And the result has been that, although they have been much discussed, and although other virtues have been suggested from time to time as entitled to a place alongside of them, no serious proposal has been made to degrade them from the high rank given them by Plato, and to-day they still are accepted by all to whose notice they come as descriptive of the fundamentals of moral character. The types of action to which they prompt are held to be intuitively known as right by dogmatic intuitionists, and approval of these actions are among the "middle axioms" so universally declared to be accepted by human concensus.

It will not be necessary here to consider all the other virtues suggested as cardinal at different times, but, in view of reasons to be mentioned in part now and in part later, a word is in place regarding benevolence. The

closely allied virtue of beneficence has of course always been approved, and has escaped mention only because "doing good" is but another name for morality in its entirety. All authorities insist on the morality of beneficence. But benevolence also early received mention. To be sure, among ethical writers it was first prominently mentioned, as far as I am aware, by Thomas Aquinas in the thirteenth century, there taking the form of love, and being placed with the other two of the Pauline triad, faith and hope, above Plato's list, and regarded as supervisory of it. But, as the mention of Paul suggests, benevolence was recognized long before Aquinas. Indeed, in addition to being recognized by Paul, it was recognized by Christ, by Buddha, and by Confucius, as well as by Mohammed, and may accordingly be described as the distinctive contribution of monotheism to the solution of moral problems. More primitive opinion was well aware that in the moral man the will is strong for courage and temperance, and the insight of intellect just and wise. But monotheistic religions first taught, both in impressive examples, and in the lives and precepts of devoted followers, that true morality is also, and it may be principally, a matter of the heart and feelings. However full, clear, and keen the insight, and however strong the will, there is no security that they can compass moral action, unless strong emotion is their ally; and even where they alone do compass it, the actions lack the finish and acceptableness that genuine feeling alone can impart. As Paul says, "Love is the fulfilment of law." Like the other cardinal virtues, benevolence has been variously interpreted at different times and in different places, for instance, being identified with charity by early monotheism everywhere, and only later being given broader interpretations. But it will be time to consider its history when this virtue is taken up for special study. For the present it is sufficient to say that civilized peoples have always

ranked it among the fundamental virtues.[1] The cardinal virtues that will be discussed are accordingly courage, temperance, benevolence, justice, and wisdom.

And finally, it may be pointed out that this list is at once adequate and compact, covering the whole field of morality, but covering no portion of the field twice. If all these virtues were present in any man, his actions would be sure to be objectively moral, while where any is absent or present in imperfect form, he is prevented from acting with perfect morality. For, in order to constitute objective morality, the will must have control over the aversions, and this is courage; and over the inclinations, which is temperance; the feelings and inclinations must make for objective morality, *i.e.* they must be benevolent; and the intellect must know what objectively moral conduct is, *i.e.* it must be just and wise.

But why, it may be asked, if the inclinations are virtuous, need the will be virtuous too? And if the intellect is just, why need it also be wise? To the first question the answer is, that the feelings are not sufficiently flexible fully to support objective morality. A man who lived in one torpid community might conceivably be adequately guided by his feelings alone. He might learn to adjust himself to the conditions of that community, and once adjusted he would be always adjusted. But usually men move about, and, in any event, conditions change. And though a man might adjust himself to one set of conditions, he would soon find himself out of adjustment again. Besides, to be moral is not to be stationary, and modes of conduct must change. But the feelings change very slowly, and when they do so it is because they are controlled by the will, which is guided by the more teach-

[1] It is interesting to note that faith and hope, especially the latter, have not continued to hold their places alongside of love or benevolence. Important as they are, they are too likely to appear in exaggerated forms, and besides their essence is already present in courage and love.

able and discriminating ideas. In a word, as has already appeared, morality is partly a matter of fixed custom, and partly a matter of keen and wide-awake insight, and while the feelings may be adjusted to the former, only when controlled by will can they be kept in adjustment with the latter.

And the same principle explains the need for both justice and wisdom. Justice is that portion of morality that consists of customs and usages that can be embodied in a code of laws, and the just man is the man who knows and lives up to this code. But these laws must be applied to concrete situations as they arise, and they must be both improved and altered into adjustment to changed conditions; and the wise man knows how to apply, improve, and alter the code of justice. Again, by improving laws and altering them into adjustment, we mean changing them with a view to increasing the service of conduct to sentient welfare. So the wise man must know what sentient welfare, the supreme end, is, and must improve that knowledge as opportunities offer. All this will be plainer after the cardinal virtues have been discussed separately.

CHAPTER X

Courage

§ 1. Three Conceptions of Courage

As was suggested in the last chapter, courage as a virtue is a habit of will. It is such an association of present suffering or apprehended danger with the fact and feeling of effort, as insures the calling forth by the former of the latter, and the latter's support of actions that firmly face the situation. In this sense courage may be defined as the *habit of will that makes for the doing of what is to be done, in spite of discomfort, disinclination, and pain, present and prospective.* The last phrase suggests the difference between courage of endurance, or fortitude, which consists in the determined following of purpose without regard to suffering, and the more generally recognized daring courage that risks the bringing down on its agent of the undesirable results anticipated from the action. As the definition suggests, the main difficulty in giving a satisfactory account of courage arises from the difficulty of stating "what is to be done." But another difficulty, felt by many, is that of determining which of the several qualities of character that contribute to insure the performance of difficult actions is properly to be denominated courage.

At the other extreme from the conception of courage set forth in the above definition is the popular conception, as it may be called. According to the latter, bravery is shown in any action, though especially in the steady en-

durance of suffering or facing of physical danger, that it would be difficult for the ordinary man to perform, and a man is brave if he has *any* qualities of character that enable him to perform actions difficult for others. Inasmuch as liability to fear diminishes the chances of firmly facing danger, popular opinion considers courageous the fearless man. And inasmuch as the fervent devotion of a mother and of a patriot enable them to do deeds that others would shrink from, such deeds too are regarded as brave. Though with some hesitation, it is possible that popular opinion would consider brave the men whose slight powers of imagination render them incapable of appreciating the dangers they risk, or even the men whose insensitiveness spares them pain which others would feel. And though no doubt men generally would recognize the courage of Henry of Navarre, who by force of will gallantly led his first charge, in spite of the trembling of every limb and the strongest inclinations to turn in flight, it is not certain that they would regard him as more courageous than the stolid campaigners of his army who knew no fear. Briefly, according to popular opinion a man is brave who has any qualities, whether of feeling (*e.g.* fearlessness), of intellect, or even (less emphatically) of will, that insure his facing what would be suffering and danger to the ordinary man.

A conception midway between the popular conception and that of the definition insists that there is courage only in so far as suffering is experienced or danger is appreciated. According to this conception the popular view is wrong in regarding an action as courageous merely because it would be difficult for the average man to perform. There is no courage unless suffering or fear is genuinely experienced and endured or controlled by the agent himself. The bravery of the stolid countryman who is quiet and calm because he experiences no pain can be compared to that of the chloroformed patient; and the bravery of the man mentioned above, with too little imagination

to realize danger, to that of the locomotive that dashes through an open switch. A courageous action, as the upholders of the medium view maintain, is an action that is difficult not merely to the average man but to the agent in each case. Again, the medium view differs from that formulated in the definition in that it conceives courage to be present when *any* quality of character leads the agent to face suffering or danger with a firm front. For instance, according to the medium view, bravery is shown, both by the soldier who faces death from devotion to his general and enthusiasm for the cause, and by the soldier who does so from grim determination, though suspecting the competence of his general and the justice of his cause. But according to the definition, while the former undoubtedly manifests virtuous feeling (benevolence in the terminology here used), only the latter manifests courage or virtue of will.

This is not the place to decide which of the three conceptions of courage is correct. As the discussion proceeds it will appear that the definition formulates the most practical and convenient conception of courage as a virtue. But meantime it will be best to begin with the popular conception, and to sketch in outline the changes that have gradually refined and clarified it. This procedure will serve as a helpful introduction to the present-day notion of the nature of the virtue of courage.

§ 2. Sketch of the Development of Courage and of its Conception

Physical Courage. — There is a great deal to show that animals are courageous in the popular sense of the word. Lions, tigers, most carnivora, are brave; hares, deer, most herbivora, are timid or even cowardly. A distinction is recognized between well-bred dogs, like the mastiff and the bulldog, and "cowardly curs." Even the females of most of the higher animals, notably in the case of monkeys, show

much fortitude and daring in caring for and defending their young. Indeed, the evidence is so plentiful and familiar that a word is sufficient to suggest it. Naturally, since they are not endowed with volition, among animals courage is not a matter of the will, but of the feelings or of the intellect. Moreover, it should be just mentioned, among animals as among men the brave are rewarded in various ways, *e.g.* they are followed as leaders, they enjoy immunity from interference, they are allowed a large share and the first pick of the prey.

And coming to primitive men, courage, though beginning occasionally to be a matter of will, is in the main identical with its animal prototype. From the first, men appear who are but slowly excited to fear and who are comparatively insensitive to pain. Others, either in addition to these qualities, or in contrast with them, are endowed with a lively interest in, a sustained devotion to, or an unusual aptitude for warlike pursuits and the rewards and results of successful warfare. Men of these types are born fighters. Chiefly by virtue of their inborn disposition, but partly by aid of will, they achieve a degree of endurance and daring that awakens the admiration and respect of their more ordinary fellows.

Moreover, partly because instinct impels to such treatment, and partly because experience and reason teach their value, the brave receive the highest rewards in the gift of their associates. The instinctive admiration and reward for bravery is, of course, an inheritance by man from his animal ancestry. But there is a difference. Animals with their narrowly limited foresight cannot trace consequences back to the actions from which they spring, and cannot accordingly by reflection gain any insight, adequate to insure its encouragement, into the paramount social value of individual courage. If individuals are to be deterred from cowardice and spurred on to courage by social pressure, and if the risks of premature death and consequent

failure in offspring run by the brave are to be counterbalanced by equal or greater favours granted them by their animal associates, so as to secure courage from extermination at the hands of adverse natural selection, the pressure and the favours must be matters of instinct, for reflection is non-existent and cannot stimulate to them. And what is true of social animals is also true of men as they arise from the animal state, and for long thereafter. From the very first steadiness and daring have awakened among men an admiration so spontaneous as to be evidently instinctive. This is witnessed to, if witness is needed, by the first rude poetry, which tells of valorous deeds, by the organization of savage hordes under the chieftainship of the bravest fighters, and by the deification of mighty warriors; for in all these activities primitive men obey the promptings of nature, not of deliberation. And even to the present day the instinct survives. Our admiration for courage is only partly a coldly calculating encouragement of conduct seen to be generally advantageous. In presence of deeds of exceptional daring or endurance, the lighting of the eye and the glow about the heart are spontaneous tributes to their worth.

And yet from the first appearance of man, to the natural, a reflective appreciation of courage began to add itself. For individual bravery is quite plainly to the advantage of all, especially at first when savage men live in small hordes surrounded by ever hostile neighbours. "We may state that in early social stages fighting power was the critical or essential power for each race; that those in which it flourished most conquered, and often exterminated the rest. . . . Savage tribes may often be said to hold life at every moment upon the tenure of military prowess. . . ." And, "The utility of courage must have been a very obvious discovery as soon as any reflection became possible. No condition of the preservation of a community could be so palpable or pressed by such con-

stant and repeated experience upon the attention of its members. They could see every day that their existence depended upon the readiness to confront danger."[1] Brave warriors render, under savage conditions, most conspicious service to all, and are appreciated and rewarded for the reason that they do so.

With the reflective appreciation of courage, courage as a quality of will for the first time becomes possible. When the individual, together with the rest of his tribe, comes to form the conception of courage, to appreciate its utility, and to desire it as a valuable and worthy characteristic of conduct and character, then on occasions he is stimulated to endeavour, to endure, and to dare in spite of the shrinkings of suffering and fear. Even though their nerves be weak, courage is then possible to men of strong will; while for men who are strong both in nerves and in will, at critical times the little more is possible — the little more that makes all the difference between failure and success.

It may thus be said that military courage, independent of the particular qualities of character that insure it, is most highly considered in primitive warlike societies, and that both instinctive and reflective social opinion, in which the individual shares, brings pressure to bear upon each to make him brave. It is even probable that courage is the first, as it certainly is the most highly prized, of the virtues or approved qualities of character. This seems to be the meaning of the fact that our word "virtue" is derived from the Latin *virtus*, originally meaning courage or manliness, of which moreover the Greek word for virtue, *ἀρετή*, is a substantial equivalent. And if it is true that at first virtue was synonymous with courage, that courage was the only virtue recognized, it is only natural to infer that by a process of development and specialization, the other virtues largely developed out of courage; and in fact this is the case.

[1] Stephen, *Science of Eth.*, Ch. V, II.

Among savage and primitive tribes, then, the courage that is so highly, and probably exclusively, commended, is very narrowly conceived. For, in the first place, it includes no more than unusual endurance and daring under attack of human enemies. Little or no disgrace attaches to giving way before other than human foes, for instance, before the supernatural, whether represented by commotions of Nature, such as storms and earthquakes, or by the threats of the gods, as voiced by priests or read in omens. To the savage, human enemies seem natural and normal foes, and to flinch before them he considers unmanly; but it either does not occur to him to attempt to master the many other inner and outer, psychic and physical, opponents of man, or else, in some cases, it seems to him beyond the capacity of man to nerve himself for such unequal conquests. And, in the second place, courage is at first conceived as including only one form of warlike conduct, the disregard of suffering and danger, the treating of them as if they did not exist.

Self-possession. — Out of this slight germ it is that the rich civilized conception of courage and of at least some of the other virtues develops. And, as is natural, the first expansion, while still including under courage only warlike conduct, comes to admit within the conception forms of warlike activity other than those that merely disregard suffering and danger. It soon becomes apparent that undiscriminating insensibility to present and future pain and loss is often a quality the opposite of valuable. While it is still evident that by cowardly flight a warrior injures all his tribe, it also comes to be recognized, with increase of intelligence, that injury is suffered at the hands of the rash leader who runs unnecessary risks. It is still considered cowardly to flinch from present or prospective disaster, but in addition it is seen that the courage displayed by the man who uses his wits effectively in deciding on the best measures for meeting critical situa-

tions is higher and more useful than the courage whose sole resource consists in foolhardy disregard of essential facts. The conception of courage has been so broadened that, in addition to mere physical indifference to suffering, it includes an intellectual element, the ability to keep one's head, to control one's actions calmly, without perturbation, and with the degree of keenness and breadth of view with which one is naturally endowed. Then, in the words of Mr. Stephen, "Courage changes its quality to some extent, and we admire the kind of courage which is manifested by the general commanding under stress of great danger and heavy responsibility more than the simple courage of the soldier who walks up to a battery, or of a hunter who confronts a tiger in his jungle."

Other Forms of Courage. — The further development of courage and of its conception are probably dependent on and incident to the growth in importance of peaceful as compared with warlike pursuits. As conditions become more settled, and longer intervals elapse between successive wars, the efficiency of men in peaceful callings comes to be more and more regarded in estimating their characters. Military ability and courage, both physical and (though to lesser extent) intelligent, are not infrequently found joined to other qualities and to defects that render their possessors more or less unfit for the less stimulating duties of peace. When freed from the control and responsibility of the campaign, the soldier is often irascible, overbearing, lawless, and brutal, and it may be lazy, intemperate, and cunningly cruel. Danger and conflict stimulate some temperaments to do their utmost, while in the tedium of peace they find little that appeals to the imagination and incites to effort, and in peaceful folk little that calls forth their respect; besides there is danger that the conduct towards enemies, that war has made habitual, may be practised in some measure towards fellow-tribesmen during peace. Men with such qualities are turbu-

lent and inefficient members of peaceful communities, obviously at best useless, and at worst positively harmful, in act and example alike. And while their brave military services, past and prospective, awaken admiration and appreciation, these feelings are likely to diminish and possibly to disappear if peace lasts too long, and if the men who aroused them do not succeed in adjusting themselves to peaceful conditions.

Other qualities, useful in peace, thus come to be set alongside of military courage as objects of general admiration and respect. Many of these qualities fall without the conception of courage, and will be discussed when the other virtues come up for consideration, but some of them are in essence the same as courage and gradually come to be recognized as instances of that virtue. This process is very gradual in a double sense. The various phases of courage in civic, in industrial, and, in general, in non-military life, are slow to evolve as distinct qualities, for the reason that it is only as society becomes complex and occupation specialized that opportunities for their exercise make their appearance. And, secondly, the various kinds of courage must each be in existence for some time before it comes to distinct consciousness and is recognized as courage. The evolution of each of the species of courage presents an interesting problem, especially the evolution of industriousness and honesty, without which civilization is impossible. But space limitations prevent the broaching of these problems here, and it is sufficient to sketch the general lines of development.

As the utility of other callings besides the military comes to be appreciated, effectiveness in them is recognized and men with the faculty of meeting and overcoming obstacles, whether in their chosen field or in general, compel the admiration of their fellows and are rewarded accordingly. Naturally, different obstacles are encountered in the various fields, and the courage required to meet them man-

fully varies accordingly. The sailor, the physician, and the business man are confronted by, and must be prepared to face, very different forms of risk and disaster, and the general estimate of the character of any of them is much less seriously lowered by his failure in the fields of other men's chosen activities than by failure in his chosen field. It is hardly expected of a physician that he should be unappalled by a storm at sea, and it certainly is not expected, whatever the need, that he should climb a mast and reef a sail, any more than it is expected of a sailor, though off duty, that he should hasten to the small-pox hospital and tend the sick. Indeed, in some cases, *e.g.* in women and children, modesty is admired; and, though modesty is often courageous, and is quite compatible with a clear head, it is so different from that self-assertive disregard of all danger, first recognized as courage, that commendation of it may well be taken as an indication of the advance that has been made since courage was first recognized.

In general, then, it comes to be seen that to run some risks is the opposite of admirable, and that for different men courage is exercised in different directions and in regard to different dangers and pains, thus giving rise to the various species of courage. No doubt soldierly courage for a long time, and even now (probably because of its instinctive origin) is most highly admired; more highly admired by people generally than, for instance, the courage of the fireman who braves flames and tottering walls, or the equal courage of the physician who repeatedly runs the risks of repulsive, painful, and disabling diseases. Yet whatever their relative valuations, many forms of courage are in time recognized, and, as is but natural, greatly as they differ, they are in essence the same. In all forms, either difficult situations are faced firmly, or the decisions reached are resolutely adhered to in spite of risks and obstacles. It is, of course, only grad-

ually that the essential nature of courage comes to be articulately conceived, and probably even now there are not many men who have leisure and inclination to frame it. But though not a matter of distinct conception to many, the knowledge of what courage is has long been a matter of feeling to well-poised men, and in this form has enabled them to recognize new species as they have appeared, and to group them under the head of courage as objects of admiration.

§ 3. Moral Courage

In what precedes courage has been spoken of in general terms as a quality that has awakened admiration, and no attempt has been made, either to single out the species known as moral courage from the genus, or to discover how and when the former came to be distinctly conceived. In fact the distinction, though genuine, is too subtle to be prominent in popular thought, for it rests on the distinction between the admirable and the commendable (*τ' ἀγαθόν καὶ καλόν*), which even the keenest of the acute Greeks failed to distinguish. And accordingly any attempt to trace separately the development of moral courage and its conception would have reached results so tentative and insecure as to be useless.

But in modern times, as a result of the essentially moral development of the last nineteen centuries, all ethical ideas have become much clearer, and the specific distinction under consideration has become sufficiently prominent to be fit for helpful description. A little reflection will make it plain that, though always admired, courageous men and actions are often disapproved, and that sometimes courageous actions are regarded as non-moral. As Mr. Stephen says, "If courage [were] intrinsically virtuous, . . . we should have to admit that every manifestation of courage was virtuous, and we should call a man good because he met a tiger unflinchingly when he was simply engaged in

sport," whereas in fact no one would think that such an act had any moral quality. And again, men undoubtedly admire an Alexander or a Napoleon, indeed, cannot but admire them, but there is much in their lives, including some of their boldest deeds, that is all but universally condemned. It seems, accordingly, that some courageous actions have moral value, while others have not, and it is pertinent to ask what characteristic is present in the former in addition to their bravery.

Subjectively Moral Courage. — One characteristic that obviously brings courageous action within the moral sphere is what has been called its subjective rightness in Chapter III. If a man bravely does what he considers his duty, his act, though it should chance to be mistaken and injurious, is both admirable and genuinely though incompletely moral. And it is acts of this kind that display what is properly to be called moral courage, and not, as a loose usage suggests, acts that brave public opinion or pressure of friends, or acts in which the head is kept clear in spite of suffering and danger; for in any of these cases the motive may be non-moral or even immoral. Kant, it will be remembered, regards acts displaying moral courage (together with acts of temperance in which desires or appetites are restrained from moral motives, or, in general, all actions performed for duty's sake) as supremely and completely moral. He denies that they are in any way deficient or exceptionable from any point of view. And there can be no doubt but what moral courage is most highly esteemed and respected by all. Indeed, if a virtue were a quality of character that is generally, or on the whole, of the highest value, moral courage would beyond doubt be a virtue, and one of the greatest among the virtues. For the highest convictions are but pious wishes, ineffective and useless, in men so weak in character as to be deterred from carrying them out by pain or threat of pain. But a virtue is a quality of character that insures

the performance of *objectively* moral conduct, as the word "virtue" is here used, and moral courage, it must be admitted, does not satisfy the definition. Consciences sometimes err grievously; so much so that at times there seems ground for holding that more harm is done by blunderers, though their intentions be the best, than by all the host of conscious evil-doers; at least against the latter men are forewarned and on their guard, while the former take the heart out of moral enthusiasm by undermining faith in morality's power for good. Kant, who did not recognize the distinction between objective and subjective morality, was unable to perceive any defect in conduct inspired by duty, and to him it seemed the highest. But at the end of the nineteenth century, partly because life has taken on a great increase of complexity, and partly because the moral nature is allowed to grow up at haphazard and without education, there are so many cases of acute ill-adjustment between individual consciences and the conditions in which they live — there are so many moral cranks and blunderers, that it is impossible to trust conscience implicitly as Kant did, and impossible consequently to look on moral courage, when by itself and unaided, as a virtue, as a quality of character that insures objectively moral conduct.

Courage as a Virtue. — Moral courage then, without the saving grace of common sense, cannot be called a virtue: a man so obtuse to the nature of conscience as to put absolute trust in his own, and to set it up against the world, may be heroic, but he is also dangerous. It remains accordingly to hold that moral courage is a virtue only in so far as the conscience resolutely followed is in accord with the standard conscience. In a word, only men who can be counted on to be *beneficent* in spite of disinclination, discomfort, and pain, present and prospective, are endowed with the virtue of courage. In men, if any such there be, whose judgments are perfectly sound, so that they

always, and, as it were, inevitably know what will best minister to social welfare, moral courage is an unmixed good. It is easy on the basis of this conclusion to infer that courage is merely a kind of beneficence, and in fact some authors have so held. But such a view is erroneous, for it confuses a quality of character with the conduct to which it leads. According to the conception of morality here developed, in so far as it has as yet been developed, those actions are objectively moral which minister to social welfare, and the cardinal virtues are qualities of character indispensable for insuring the performance of such actions. Among these qualities courage is one, and will always be indispensable. Insight into moral principles and the faculty of applying them wisely to concrete emergencies are a fruitful source of beneficent action, and the same can be said of proper feelings towards the various interests affected by human actions. But contingencies have always arisen, and are sure always to arise where duty requires actions opposed by inclination, and for whose performance will-power is indispensable, and this is but another way of saying that without courage duty would often fail of performance.

The conception that has been reached of courage as a virtue, is an incomplete conception, and so must remain till the progress of the inquiry develops a more adequate account of beneficent action. We know that beneficent actions are actions that further sentient welfare, but much remains to be discovered about the nature of the actions that accomplish this result. Future chapters, especially the chapter on justice, must be relied on to fill out our knowledge.

In summary, then, it may be said, (1) that while admirable, physical or blind courage that disregards danger and suffering, and mental or clear-headed courage that plans intelligently and firmly in spite of their disturbing influence, are not infrequently non-moral or even immoral;

(2) that the habit of moral courage is subjectively right and in so far approved, but is also at times injurious rather than helpful, and cannot therefore be called a virtue; and (3) that, though ignorance of the nature of beneficence makes the definition incomplete, the only statement at present justified is, that courage as a virtue consists in resolute beneficence in spite of aversion in any form.

The progress of the discussion has no doubt made plain the reason for regarding courage as a virtue of will. Only acts difficult for the individual to perform, acts performed by dint of self-control, are genuinely courageous; it is in this that their heroism consists. The first undiscriminating view too hastily assumes that achievements difficult for the ordinary man have this heroic quality. A keener insight insists that acts are courageous only if the agent has a strong impulsion against them, failing to perceive that when a stronger feeling impels to them they are not difficult. The fully developed and correct view discerns the fact that acts are courageous only in so far as their performance is due to determination and firm resolve. In general it may be pointed out that the conception of courage grows in two relatively independent directions. At first courage is very broadly conceived as a quality of character, and very narrowly conceived as a kind of action. As time goes on it comes to be very precisely conceived as a quality, and very broadly and yet specifically conceived as a comprehensive class of actions under which are many subclasses.

CHAPTER XI

Temperance

§ 1. Introduction

It is unfortunate that the difficulty of the problem of temperance has made it so highly contentious. That it is difficult it is impossible to deny, and indeed the early part of the present discussion will have to be largely taken up in pointing out how serious the difficulties are. But the greater and the more serious the difficulties, the more need there is for full understanding of them, and for calmness in meeting and trying to overcome them. Although consensus of opinion does not, to judge from current discussions, extend very far, yet there is considerable agreement in practice, and, for reasons that will appear later, the agreement has much significance. However dark the details, the essentials in the matter of temperance can be set down with some assurance.

As used in current discussion, the word "temperance" stands for regulation of the appetite for strong drink. This narrow usage will not be retained here. In the present discussion temperance will mean the habitual control by the will of all appetites and desires, in accordance with the rules of objective morality. The business of this chapter is to discover and formulate these rules, as fully and precisely as the difficulties of the subject will allow.

Historically and logically the regulation indicated has primary regard not so much to the random desires that

vary from man to man as to the bodily appetites present in all men. Remembering that courage is concerned with aversions and temperance with desires, a significant difference between the two appears. There are no main classes of aversions clustering about bodily states; aversions are scattering and unorganized. But the main desires, on the other hand, are well organized, and may be classed under main heads known as the appetites. These latter first attract attention as requiring regulation, and are always leaders, so to speak, among the unruly desires; until the appetites are controlled little can be done with the lesser desires.

An appetite may be roughly defined as a desire with a massive bodily basis. As typical may be mentioned the appetites for food, drink, and air. When unsatisfied, the bodily cravings, hunger, thirst, and suffocation appear, and strongly stimulate actions that promise to supply the lack. The first problem for temperance is to formulate appropriate rules for controlling the appetites; afterwards, in the light of these rules, suggestions can be made looking to the control of the lesser desires. As a means of introducing this problem the first section will give an epitomized sketch of the biological rôle of the appetites and of attempts to regulate them. No attempt will be made to follow historical sequence closely, but the principal forces that have taken part in the long conflict between the appetites and the influences seeking to control them will be briefly described.

It is just worth calling to mind that no attempt has ever been made to regulate the appetite for air. The reasons for this fact are easy to find, and the reader may be repaid in looking them up.

§ 2. The Struggle for and against the Appetites

The Strength of the Appetites. — The three fundamental appetites of food, drink, and sex, together with the attempts

that have been made to control them, form the subject-matter of this section. In order to understand the problem, it is necessary to realize fully that the strongest forces of human nature have been ranged on either side in this unceasing struggle. The strength of the appetites will be better appreciated after a reminder of the rôle they play far back in animal life, and continue to play in the struggle for existence of the supreme animal, man.

Food and drink are essential to individual existence for every animal, and, owing partly to their limited quantities, and partly to the competition for the available supply, they are at frequent intervals, of longer or shorter duration, extremely difficult to secure. Much suffering and a large output of energy is the price animals pay for the food and drink necessary to sustain life. And of course none but those under the lash of strong desires will make such sacrifices. Animals in whom hunger and thirst are too little insistent, soon perish; those who survive, display great daring, great endurance, or great cunning when spurred on by hunger or thirst.

On the other hand, the sexual appetite makes very little, if at all, for individual survival. Were it entirely to disappear from a species, the life chances of existing adults would be little affected.[1] The function of this appetite is to perpetuate the species, and, as there are many obstacles in the way of perpetuation, only species in which the appetite is strong survive. Besides, strong sexual appetite is indirectly of advantage to a species, by making rivalry keen and fighting fierce, and thus insuring offspring, in the long run, only to the most efficient.

It is evident, then, that in man, the descendant of species successful in the struggle for existence, the three fundamental appetites must always have been strong.

Another fact too often neglected is, that these appetites were fostered, and grew to great proportions, when the

[1] Assuming that its disappearance did not affect other powers.

difficulties in the way of satisfying them were incomparably greater than they are at present. To procure food and drink, and to rear offspring to maturity, were most precarious undertakings throughout the long geological ages during which man's animal ancestors were gradually rising to the human level. And, even for man himself, the dangers and sacrifices were great far into historic times, indeed until a relatively advanced stage of civilization was reached. In short, man inherited his appetites from a less intelligent animal ancestry, for whom it was more difficult to secure the means of satisfying them, and, in like manner, each generation of men, more efficient than the last, and therefore able with less difficulty and sacrifice to procure food and drink and to rear offspring, is nevertheless endowed with appetites strong enough for the conditions of greater difficulty confronting preceding generations. Besides these quantitative considerations relating to the intensity of the appetites, there are qualitative considerations relating to their intelligent satisfaction, to be considered more fully later; but even now the general truth is plain that each generation has found itself endowed with appetites stronger than necessary, in view of the ever increasing ease with which they are satisfied, and especially in view of the fact that imperativeness of satisfaction constantly decreases in importance, while intelligent choice of time, occasion, and manner of satisfaction constantly increases in importance. It will be readily seen that the possession by man of appetites, always indispensable, but always unduly strong, constitutes a practical problem that may well tax his wits to solve satisfactorily. Some men unduly realize the worth of the appetites, others their inordinate strength, and between the two an unceasing conflict is waged. After a further word of explanation, the details of the conflict will be suggested.

What has been said of the three fundamental appetites

is also true, though within narrower limits, of the secondary appetite for intoxicants, intoxicating and exhilarating drinks being the most notable among them. While secondary, this appetite is very important for Ethics, more important, in fact, than the drink or even the food appetite, both of the latter being all but satisfactorily regulated by instinct.

The strength of the appetite for intoxicants in man is to be explained by the advantages for him of heightened consciousness. To all animals it is advantageous to be in a state of exhilaration and of heightened activity, and to man, whose chief dependence is wide-awake intelligence, a lively consciousness is the most important of all things, a thing to whose procurement and cultivation it is advantageous for him to be strongly inclined. A sleepy race of men that prefers a dull dimness of mind to alert exhilaration of thought and feeling has less chance of survival and no chance of advance. The tropical races are temperate in drink, but they are also somnolent. The bent towards intemperance of the northern races is the result of their delight in physical activity and mental alertness. At least, delight in heightened consciousness is the central core of the appetite, though minor constituents, such as the pleasure of throwing off care, might easily be mentioned.

But while the strength of the appetite for lively consciousness is comparable to the strength of the fundamental appetites, what was said of the decreasing need for strength in the latter cannot be repeated without modification in case of the former. As social conditions increase in complexity, alert living must be at a higher pitch as well as more continuous, and the desire for it and delight in it must be at once more intense and more sustained, if the indispensable work of society is to be saved from fatal carelessness and blunder. In order that man should advance, it is necessary that the desires for richness, fulness and keenness of thought and feeling should increase

rather than diminish. But, on the other hand, equally as important as these quantitative considerations are qualitative considerations. There is imperative need for discriminative selection, so that desire may cling to heightened consciousness that is effective, and become detached from consciousness however heightened, if it is ineffective or harmful. When and in so far as intoxicants excite heightened consciousness that is helpful to society, the desire for them is advantageous; when and in so far as the states of mind they excite are harmful, the opposite is true. The problem of temperance in the matter of intoxicants is to draw the dividing line aright.

In the more detailed consideration of the control of the appetites it will be best to discuss first the appetite for intoxicants, and incidentally the food appetite, and then go on to discuss sexual indulgences. In the latter case the consequences are very different from what they are in the former, and the forces at play in the two cases cannot be discussed at the same time without confusion. In discussing the appetites for stimulants and for food the forces that encourage their gratification and those that oppose or seek to control their gratification will be considered in order.

Forces that favour the Food and Drink Appetites. — The appetites in question being, as has been shown, among the very strongest in man, naturally the pleasure derived from their gratification is very great. And, to primitive man, ignorant of physical, psychical, and social laws, these pleasures seem to be all but unmixed goods. Primitive man is like the Indian or other savage who receives "fire-water" from the whites, and looks upon the new beverage as a most welcome addition to his scanty sources of pleasure, such unpleasant physical after effects as he experiences and traces to that source being easily negligible in the large mass of hardships and discomforts to which he is inured. Neither the present nor the primitive savage has the knowledge which would enable him to look upon

overeating or overdrinking as injurious to his physical or mental health, much less as injurious to social health. Both indulgences rank high among his delights, and he cannot conceive that any one should object to his enjoyment of them. Naturally, ignorance of the effects of these forms of intemperance steadily diminishes, but the diminution is slow, and even at present among the most highly civilized races the inadequacy and indefiniteness of knowledge on the subject, which prevails in different degrees in all classes, is in part reponsible for the imperfect and insufficient control of these appetites, especially of the appetite for strong drink.

Besides, among primitive men, and among savages of to-day unspoiled by white traders, the scarcity of food and stimulants renders the problem of controlling the corresponding appetites relatively insignificant. Since we cannot have too much air, conscience makes no attempt to regulate our breathing. And, similarly, so long as Nature furnishes barely enough food, and art only the smallest quantity of intoxicants, there is little need for regulation in those directions, and none is attempted. It is only when agriculture and manufacture are relatively well advanced, and life is settled in peaceful prosperity, that either problem reaches great importance. But meantime conditions are leaving their impress. During the long period that elapses until industrial efficiency brings abundance, a feeling of safety, little justified under the new conditions that then appear, has been growing up and becoming fixed. It has come to be a settled social habit — witness the treatment of the subject in literature and art — and, possibly, a nascent neural habit, to set high value on the pleasures of eating and drinking. And as such estimates are slowly formed and firmly fixed, they are also changed slowly and with difficulty. The habit of generations favours these appetites, or, at least, opposes attempts at stringent regulation of them.

In the third place, because of the sociability engendered, large indulgences in food and intoxicants, far from being objected to, are looked upon with favour by primitive people, and indeed, though within limits defined with increasing care, by men of all stages of advancement. The common meal, being a pleasure in itself, and being besides the consummation that has crowned strenuous effort, is the natural occasion for relaxation and mutual good feeling. And, equally naturally, whatever adds, as the use of intoxicants does, to the enjoyment of the meal and to the goodfellowship about the board is prized for that service. The rise of mere eating to the rank of festivity is felt to be and is a real advance in social life. In fact, research shows that festivity plays an important rôle in the lives of primitive peoples, and has contributed materially to their socialization, by stimulating friendliness, public discussion, mutual assistance and even political alliance, good-natured rivalry, and even speech itself. These facts have been carefully studied by Professor Giddings, and his judicious words will help to make the matter plain: "There are few tribes that do not use intoxicating drinks or narcotics. Deplorable as are the consequences of both gambling and drunkenness, the truthful scientific observer is forced to admit that in the early stages of social development these vices have served a useful function, and that this doubtless is the explanation of their astonishing vitality. They have been the crude excitants of social feeling in crude natures. . . . In every savage and barbarous tribe that has learned to drink or to smoke, festivity is the commonest of social pleasures and is a strong social bond. Spontaneous play, conventionalized dancing, games, feasting, and intoxication are combined in systematic festivities which are periodically repeated. Such occasions are of great importance in counteracting the many causes of antagonism in savage life. . . . The renewal of friendly intercourse between two tribes that had been at war was

always marked among the native Australians by a korroboree." [1]

And essentially the same is true of all primitive races, and of all groups of men in the early stages of social development. No doubt festivity is generally carried farther than is necessary, is in fact generally carried so far as partly to defeat its purpose, but nevertheless it must be admitted that under rude conditions the results of festivity show a surplus of advantage over injury, not so large a surplus as is estimated by the public opinion of the time, but yet a substantial surplus. The long-established social estimate mentioned in the last paragraph goes farther therefore than to regard large indulgences as innocuous. It looks upon them as on the whole beneficial, because contributory to sociability and to lightening of the social yoke. Under present conditions, marked by the presence of many stimulants to sociability, and excitants of heightened consciousness (especially outdoor sports), and of ample food and intoxicants, the rôle of the latter is decreasing rapidly in importance, and needed readjustments in the estimate of their social value are beginning to appear. But the traditional estimate is still a strong force.

Finally, because of ignorance of the direct and indirect injuries to others that flow from intemperance, or, more accurately, because of an obstinate tradition founded during the long period when it was believed that there are no such injurious consequences, these overindulgences are looked upon as matters of private concern, the business of nobody except the agent. It thus happens that attempts to regulate eating and drinking habits run counter to the principle of privacy, which is undoubtedly essential to self-respect, and is especially well developed in virile and self-dependent individuals and races. The man of self-respect who believes, ignorantly though it be, that drunkenness is his own affair, is not likely to be patient of interference;

[1] *Giddings, op. cit.* p. 119 *sq.*

and the self-respecting onlooker who agrees with him is not likely to venture on interference. In a word, an essential constituent of morality gives its support, through ignorance, to immorality; self-respect, whose importance for morality has been shown, is often ranged in support of intemperate eating and drinking so long as ignorance blinds the eyes to the social consequences of overindulgence.

Summing up, there are four forces that support the strong appetites for food and intoxicants: ignorance of the effects on self and others of overindulgence; the long insignificance, owing to the scarcity of food and intoxicants, of whatever social injury is suffered; the aid of festivity to sociability; and, negatively, the protest of self-respect against interference with what seems to be a private matter. In sum, while ignorance and scant temptation long obscure the social dangers of intemperance, and self-respect resents interference, the social value of heightened social feeling is fully realized, and intemperance is on the whole valued rather than condemned throughout a period sufficiently long to fix a social, and, possibly, a nascent neural habit, thus further intrenching appetites quite sufficiently strong in themselves.

Forces that favour Control of the Food and Drink Appetites. — How, then, has it been at all possible to impose any regulation upon these unruly propensities? A consideration of the forces that make for their control will answer that question. For, when all is said that can be to substantiate the fact that the food and drink appetites are encouraged to the point of excess far into civilized times, and are not very successfully regulated even then, it still remains true that absolutely unrestrained they never have been. The forces described have succeeded partly in balking, partly in curtailing, and partly in eluding regulation, but some regulation has always existed, nevertheless.

At first, some regulation is provided for by Nature. Ex-

cess beyond a certain point satiates and disgusts the glutton and the drunkard, causing them, for the time being at any rate, to turn against what tempted them so strongly before. And, with the development of sympathy, this disgust is transferred from the agent to the onlooker. In the words of Mr. Stephen, describing the feelings aroused by gluttony: "As a matter of fact, the sentiment actually entertained for the gluttonous man . . . is an intrinsic feeling, . . . a spasm of disgust which is produced as directly as the rising of the gorge at any offensive object. The sight of a human hog revolts us, as we should say, simply because he is a hog, and the smell of the sty turns our stomachs."[1] And the feelings aroused by the maudlin and the sot are of the same intrinsic character. Moreover, all these feelings of repulsion and disgust become intensified with the advance of civilization and refinement, becoming besides intellectualized and refined in the process. Indeed, physical forces, *e.g.* indigestion from overeating, all but suffice to hold in check the food appetite.

And after a time intelligence comes to the assistance of instinct. Soon it comes to be appreciated that intemperance weakens men physically and mentally. This insight is formed very gradually. First, it is seen that the man who is stupid from overeating, or befuddled from wine, is at the time incapacitated from the performance of duty; and temperance is demanded of each when at the post of duty, whatever that duty may be. The drunken outpost who leaves the whole camp at the mercy of the enemy is severely dealt with, if discovered in that condition by his superiors. Later it is seen that intemperance in time saps vitality, undermines the constitution, and diminishes power and effectiveness in nearly all directions. The intemperate individual is, in nearly all cases, weakened and prevented from performing for his family, for his friends, for his business associates, and for others to whom

[1] *Op. cit.* p. 200.

he owes them, the services to which they are entitled from him. In a word, the thoroughgoing physical and intellectual imprudence of excesses, not only of food and drink, but of all kinds, is gradually realized, and, with the growing appreciation that the strength and well-being of society is dependent on the strength and well-being of its individual members, any considerable prevalence of excess is reprobated as a menace to the State and a national weakness and blemish. No doubt even now comparatively little in comparison with the range of the problem is known of the effects of excesses in the different directions, but researches are being prosecuted, and the results are throwing much-needed light on the subject. Especially energetic investigations are being carried on with a view to determining the effects of alcohol and narcotics.

And, in the third place, it comes in time to be seen that intemperance is inconsistent with moral vigour. At first only acts are approved and disapproved, but, with a wider outlook, it is seen that the valuation of any characteristic cannot rest merely upon a review of its own effects, but is in part determined by the disposition in its totality of the men in whom it appears. When this is discovered, it appears that the intemperate man is, in nearly all cases, not only self-indulgent, but selfish. If his appetites are so strong that the rudimentary precepts of prudence cannot control them, it is not probable that regard for the interests of others can influence him against the solicitations of his passions. Though it may be true that he is an enemy to himself alone, he is also, as Mr. Stephen points out, a friend to himself alone. For in general it is true that inordinate development in any direction is so far a shrinkage in other directions. "A man's love of his bottle is so much deducted from his love of his wife and children." As fearlessness may conflict with industry, sobriety, and kindness, so intemperate appetites are so much taken from a man's interest in the welfare of others, and in general in

higher concerns. These and similar considerations obtain, as time goes on, an ever increasing influence over public opinion. With the growing insight that appetites beyond control are less a private misfortune than a public menace, the devourers of all unselfish interests, the plea of mistaken self-respect, that overindulgence is nobody else's business, is heard with decreasing patience. Indeed, the pendulum is likely to swing to the other extreme. Measures of restriction so stringent as wholly to disregard the legitimate functions of the appetites are likely to be advocated and pushed with an earnestness amounting to fanaticism. When first fully awakened to the dangerous egoism of the appetites, men turn to the cold asceticism that calls for renunciation of all desires and mortification of the flesh. But before the naturalness and force of this demand can be understood, some further considerations must be discussed.

For what has so far been said gives little idea of the impatient strength of the demand for regulation for the appetites. And until that fact and the explanation for it are understood, the heart of the problem of temperance will remain dark. In fact, control, even repression, of the appetites is uncompromisingly demanded with an inordinate insistence unparalleled among the other moral demands. So far does this go that, in ordinary opinion, morality seems, and for long has seemed, to centre about the regulation of the appetites. If a man is said to be immoral, or to be addicted to vice, the first thought is, not that he is selfish and unkind, not that he is dishonest, unjust, and indifferent to the deeper aspects of public welfare, but that he is unchaste, or unduly given to intemperate drinking or other dissolute practices. Imperfectly effective and divided as is the demand for the regulation of the appetites, that notwithstanding is the strongest demand that conscience makes. And the same truth is exemplified again both in the strength and in the direction of the

ascetic demand that has been voiced some time in the history of each of the world's leading peoples. For asceticism is the uncompromising foe of the appetites — all appetites are under consideration in this paragraph — and only of the appetites among morally dangerous tendencies. Concerning itself little with unkindness, dishonesty, and injustice, and practically not at all with neglect of social interests, asceticism has concentrated all its batteries against the one point of attack. All of which can be understood only if victory at that point has been looked upon as morality's chief concern. And indeed that is beyond question the fact.

Now no little difficulty has been experienced in accounting for the importunate and seemingly disproportionate strength of this demand. Utilitarians especially "have found a special difficulty in accounting for or justifying the strength of the prevailing sentiment, and are sometimes inclined to relax the severity of the code."[1] And indeed it does, at first sight, seems strange that temperance should be esteemed so much more highly than other virtues, and it is natural enough to look upon the estimate as unduly and disproportionately high, as a freak of narrow and mistaken, if not unwholesome, social opinion. For it is plain to see that the more peculiarly social virtues, like honesty, are much more essential to social welfare. For a minimum of each of them is needed in any society if it is not to be disrupted at once, while a decidedly large amount of intemperance is compatible with social existence, however injurious to individual well-being.

But so to view the matter is to view it superficially. Energy of opposition and determination to conquer depend upon two factors, not upon one.[2] The amount of effort called forth is determined partly by the importance of the undertaking, but partly also by its difficulty, and

[1] Stephen, *op. cit.* p. 195.

[2] There are more than two factors, but no others concern us here.

the gratification at success is also largely dependent on the difficulties overcome. Now the appetites are the strongest and most elusive foes of conscience. Unduly strong themselves, they are strongly supported, as was just shown. The times and occasions of intemperance are such that without spying and intolerable restrictions on individual freedom of action, effective regulative measures are hard to devise; in aiming at intemperance it is difficult not to do damage to important social interests. Besides, intemperance is rarely solitary indulgence, and the intemperate man is assured of the support of his set of boon companions, whose opinion has much influence over him.

It is thus the very difficulty of subduing and controlling the appetites that makes them the chosen foes of morality. Carrying off the victory in numberless contests, it is safe to say that the appetites are not even now subjected to anything like the regulation demanded by social welfare. Unkindness is requited in kind, and the life of the malevolent man is likely to be unhappy. Dishonesty rarely prospers long. And, in civilized communities, injustice recoils for the most part on the head of the unjust man. In these cases the vicious man is reached by the social penalties, and vice is made on the whole unprofitable. But a very intemperate man may still hold his head high, and enjoy a large measure of social respect, especially the respect of those whose opinion he values. Most of morality's house is set reasonably well in order, but in one corner looseness and disorganization prevail in spite of repeated efforts, and it is but natural that this corner should call forth the strongest condemnation and the most earnest efforts for betterment. It is natural that conscience should give the largest share of attention to the appetites, and put forth all endeavour to reduce them to orderly submission.

Finally, a strong incentive to regulation is found in the

aversion to loss of self-control. As in the case last discussed, this impels men to hold a rein over all the appetites. But here the drink appetite comes in for the largest share of attention. And this is doubly natural; natural first because intoxication most strikingly exhibits loss of self-control, and natural secondly because the pleasure of self-control springs from the same root as the pleasure of intoxication, namely, from the delight in heightened consciousness. It takes men many generations to distinguish between effective heightened consciousness and heightened consciousness that loses in effectiveness. It is still a mooted question whether the mind is really brighter during intoxication, or whether the critical faculty is in abeyance and the mind merely seems brighter; the inaneness of the intoxicated to the sober rather favours the latter view. But, however that may be, wisdom has long suspected and science now teaches that intellectual effectiveness does not consist in a ready flow of ideas quite at random, which is the first step towards incoherence, but in the sustained and wide-awake control of ideas, in the marshalling of ideas with well-defined purpose. It is of course not in this form that the discrimination is made by any except psychologists. In others there is merely the sense, imperfectly analyzed if at all, of the ineffectiveness, of the unworthiness, possibly, as among the artistic Greeks, of the ugly disproportion of uncontrolled behaviour. There is a feeling that it is unbefitting for man to play the beast, by deadening his voluntary control and putting himself in the hands of mere unintelligent propensities. Those who have experienced genuine self-mastery value it above all things, and would exchange it for no other satisfaction. By them, and by others in calmer moments, any loss of self-control, and especially anything as inconsistent with self-control as intoxication, is looked upon with grave dissatisfaction.

In brief recapitulation then, instinct puts some check

on the appetites for food and intoxicants, and intelligence points out that they make, when unregulated, for physical and mental injury, and further that, under the same condition, they are symptomatic of an unawakened or of a deadened moral nature, and moreover that they are the most formidable foes of conscience and must therefore be subdued, and finally that unrestrained appetites are inconsistent with self-control. Comparing this array of forces with the array before described that is ranged on the side of the appetites, it is difficult to decide which is the stronger.

Or, more accurately, this is true of the appetite for intoxicants, on which a further word will be said presently. For the food appetite is not especially unruly among civilized men. It is a rather gross appeal of the physical nature, which no idealism can easily disguise, and the many exciting interests of complex modern life have without difficulty outrivalled it. So far does this go that the modern error is indifference to sufficient and especially to proper food, rather than undue indulgence in food. Besides, food consumption is chiefly a matter of prudence, since overeating has little effect on others, affecting them in the way of failure of service rather than in the way of positive injury, and some substitute for the services of the glutton can generally be obtained. For ethical purposes the food appetite falls back into the mass of desires, and is regulated on much the same principles as they are, supplemented by the suggestions of hunger, good manners, and hygiene.

But with the drink appetite it is otherwise. All the forces described have been arrayed on either side, and the short conflict, in part because it has been short, has been as intense as indecisive. Some believe that this appetite is too much regulated, others that it is too little regulated. Few, if any, are satisfied with the modes of regulation so far devised. And the reasons for this unsettled and conflict-

ing state of opinion must by this time be apparent. The problem is more intricate than is generally supposed, and only one of its sides is as a rule seen by each of the contending parties; they are like the knights of the fable, neither of whom saw the side of the shield seen by the other. One party forgets that by social custom nearly as old as mankind, a large part of sociability is grouped about drinking, and besides that in regulating drinking, it is very difficult not unduly to encroach upon important individual rights. The other side forgets that drinking easily runs into excess, and that, when it does so, it is productive of social damage both in the form of positive aggression on the part of the agent, and negatively through impairment of his effectiveness and self-control.

This stubborn conflict of views could naturally have but one result. Instead of a united public opinion upholding a well-defined scheme of conduct, practically every man has been able to find whatever views he held, and whatever behaviour he practised, sustained by an imposing body of opinion. The standards upheld in practice have been so many and so various that there has in fact been no standard, and men have been compelled in the confusion to trust to their unassisted judgments. At least this was true until nearly the middle of the nineteenth century. Since then opinions have shown a tendency to crystallize along fairly well-defined lines. But the time has been too short to trace those lines clearly or to give assurance that they are definitely settled upon. Such indications as can be gathered by a careful survey will be suggested in the next section, and meantime an account will be given of the history of opinion with regard to the third primary appetite, for it has been more successfully regulated, and the measures adopted to that end will throw important side lights on the regulation of the drink appetite.

Regulation of the Reproductive Appetite. — The reasons

that explain the better regulation of the sexual appetite, in spite of its being stronger and more persistent than the drink appetite, will repay a moment's attention. In general these reasons may be summed up in the statement that the forces that oppose regulation are weaker and the forces that impose regulation are stronger than in the case of the drink appetite. Ignorance and mistaken self-respect do not stand aggressively in the way of regulating sexual relations, for their social consequences are evident even to savages. Besides, the need of proper regulation has existed and has been appreciated, not only for a few generations, but throughout human history, and it is but natural that some definite rules and some well-established social devices have come to be settled upon. And, while sexual relations are more important to society, being for one thing essential to its perpetuation, this fact may have made regulation easier rather than more difficult, by preventing mistaken attempts to suppress mating altogether.[1] And, on the other hand, the forces that make for control of this appetite are stronger than in the case last considered. Several instinctive checks, *e.g.* modesty and jealousy, surround the mating tendency. If the impairment of physical and mental health and vigour by excess is not so evident, the social consequences, especially where children are brought into the world to be neglected, are abundantly plain. The inconsistency of sexual excesses with moral vigour is very marked. The unruly strength of the appetite has always aroused conscience to its utmost endeavour. And undue indulgence brings self-control into great danger. Besides, from the beginning of settled industry until quite recently, fathers profited by the labour of their legitimate children, thus furnishing another strong incentive for living in the lawful wedded state. Of all these forces the most per-

[1] Such attempts have never been made. Even when asceticism has been at its height, celibacy and chastity have been considered "counsels of perfection," applicable only to the few.

sistently influential has been the evident social importance of well-regulated sexual relations. Healthy social sentiment has always realized that the welfare of the state is fundamentally dependent on wholesome family relations. No doubt this sentiment has had more concern with and effect on women, but its influence over men has not been inconsiderable.

Though described last, the regulation of the sexual appetite was the first to be undertaken. As courage first picked out the inordinately strong aversion to physical suffering and danger, so temperance first picked out this inordinately strong appetite. And in the latter case as in the former, the first regulations were few and simple, and were based upon instinctive modes of control. Among the higher animals there is some repugnance to mating within the family group, and this repugnance, at first entirely and always largely physical, when inherited by man, was the basis of the reprobation of marriage within the family, and later within the clan. Aside from this restriction, the only primitive requirement seems to have been a brief fidelity, covering probably the two years measured in either direction from the birth of the offspring. So much fidelity and more can be found among some higher apes, and no doubt a brief fidelity was instinctive with primitive man. Out of this primitive condition there gradually developed the later forms of marriage, relative promiscuity giving place in turn to polyandry, polygyny, and monogamy. Aside from the existence of the four main forms of marriage, and their probable order, there is little settled knowledge on the subject, our ignorance being especially dense with regard to the causes that are responsible for the transition from any form to the next. But it seems probable that some races have skipped polyandry, and it is known that only the highest have attained to monogamy, and that even among them the monogamy practised is far from being perfect. In general it may be

said that the history of marriage reveals a stubborn struggle to secure the efficient protection and guidance of its father for the child, both directly, and indirectly by such care and support for the mother as will allow her main energies to be devoted to its welfare. A large body of laws and social rules and customs coöperate in seeking this end, the main method being the establishment of permanent and happy unions between wedded pairs, thus assuring the well-adjusted coöperation of both parents for the bringing up of their children. These laws and rules will be described in the next section.

§ 3. The Virtue of Temperance

Some Objective Rules. — The last section was mainly concerned with the difficulty of the problem of temperance, but incidentally it discovered some objective rules for the regulation of the appetites. Chief among these is the rule condemning loss of self-control. No doubt this rule was unknown in early days, and even now it is very frequently broken. But significant is the fact that it is conceived with increasing clearness and enforced with increasing assurance in proportion as men grow in appreciation of the central rôle played by well-poised intelligence. That man is admittedly intemperate who, instead of mastering, is mastered by his desires, and a nation composed in any large measure of such men is frequently distracted by outbursts of popular caprice.

At first sight it may appear that the prescription of self-control is wholly a matter of subjective morality, for it seems to require no more than that passion should not be allowed to confuse or silence the voice of conscience. But while the rule is founded on the familiar injunction, "Follow your conscience," and thereby gains the highest authority, this injunction does not adequately express the rule; in some cases the rule may reasonably demand change of conscience, and behaviour that conscience has not

theretofore required. For the further fact, that even conscientious men often forget or fail to reckon with, is, that all strong passions tend, if indulged without restraint, both to intoxicate and to get a hold on their victims past shaking off, in either case impairing self-control. Of course the tendency to intoxication is strongest in case of the passion for strong drink, but this, as well as the tendency to settle into fixed habit, is characteristic of all passionate indulgence. In the interest of the maintenance of self-control there are, therefore, two rules of objective morality. (1) At no time indulge an appetite to the point of intoxication. (2) Indulge no appetite so frequently and freely as to form an uncontrollable habit. These are rules of objective morality because the virtuous man would observe them, or, negatively, any man who breaks them in so far fails of morality. Of course some breaches are far more serious than others. Their seriousness depends, in fact, on several factors; in case of the first rule, among other things, on the social office of the culprit and the importance at the time of self-possession; in the case of the second rule on the social damage done by the habit, nail-biting, for instance, being trivial as compared with gluttony. But any breach of either rule is in some measure a moral blemish. For the rules are firmly based, resting on the authority of the central injunction of obedience to conscience, reënforced by an appreciation, that has grown with the growth of wisdom, of the incomparable importance of self-control.

Another objective rule that is mainly popular, though it has, besides, the high authority of Aristotle, is very similar in practice to the first above mentioned. This is the rule that disapproves of both excess and defect, but approves of the golden mean of indulgence. It is as disapproving of excess that it is similar to, though less exact, as commonly interpreted, than the first rule. In fact, the rule of the golden mean is, depending on its interpretation,

either too rigid for so complex a problem, or too vague to give useful guidance, and in either case is misleading besides. Of course the word "mean" is a mathematical term used to designate the exact mid-point between two quantitative extremes. And with that meaning in mind, Aristotle, and he alone, undertook to define virtuous conduct as that which observes the mean. But he was too clear-sighted to hold to this definition, being compelled by the facts to admit a number of exceptions, as notably in the case of unduly strong propensities, when virtuous indulgence is declared to edge away from the mean towards defect. And, in general practice, all attempt at mathematical exactness has been abandoned, and all that has been demanded is that no natural tendency should be indulged either too much or too little. In short, the attempt to regulate the appetites on an exact mathematical or quantitative basis has broken down. And the reason of the breakdown, as will presently appear, is to be found in the fact that proper indulgence of the appetites cannot be adequately described in terms of "too much" and "too little," for it is rather a question of when, where, how, and with whom. When standing alone, the rule of the golden mean is accordingly misleading in overemphasizing quantitative considerations, and in thus withdrawing attention from the more important considerations of time, place, manner, and company.[1] But when regard is had to those considerations, the rule, as assistant to the two above set down, has a rough practical utility.

Further Procedure. — In fact, among all peoples the time, place, manner, and company in which desires are indulged have been more seriously considered than degree or frequency of indulgence; in part for the reason, no

[1] Aristotle recognizes the importance of time, place, manner, and company, *Nik. Eth.*, Bk. II, Chs. V and VI, but he does not develop the thought, or bring these factors into connection with the mean, which is central for him.

doubt, that the former largely determine the latter. This is best illustrated in the matter of marriage, and of the many rules and customs governing eating, though a little observation will disclose a similar state of facts in regard to the regulation of other appetites and desires. But, while regulation in the four respects mentioned exists among all peoples, the regulations differ widely, and some criterion is needed for selecting a body of rules that shall form a basis upon which may be built up the structure of objective morality. The most promising plan here, as elsewhere in the discussion of difficult problems, is to proceed from the known to the unknown, to study first what is clear and plain, and, with the results thereby obtained in hand, to pass to more obscure fields.

Under this plan the first step is easily taken. For the last section has shown that the sexual appetite is better regulated than any other. No doubt the rules so far devised are imperfect and are often disregarded. But there is a well-settled body of opinion on the subject, and it would be impossible elsewhere in the field of temperance to discover a better basis on which to build a sound and adequate view. Some objective basis must be had, for, when unsupported, individual views and suggestions are wayward and without authority.

Monogamy. — Nor is it difficult to decide which system of sexual regulation is the highest, which of the existing systems is most largely contributory to social welfare. The system of monogamy is universally approved and more or less faithfully practised by the races and nations that lead in vitality and welfare, while the other systems obtain only among inferior peoples. It is, of course, easy to underestimate other peoples and to overestimate our own, and it is necessary to be on our guard in passing comparative judgments. But in the case under consideration there can be no room for reasonable doubt. It is a fact attested by the most deliberate and sober judgment

that every conspicuously prosperous nation is monogamous, while no non-monogamous nation or tribe enjoys any marked degree of welfare.

And the significance of this striking fact is emphasized by the close dependence of welfare on healthy family relations. It would not do, for instance, to argue from national prosperity back to artistic excellence. For, while artistic achievement is a valuable component of welfare, it is not in the same intimate sense an essential precondition of welfare. In ancient Greece, for instance, the fine arts flourished in unsurpassed beauty when the state was corrupted and on the verge of dissolution. And, on the other hand, some of the modern peoples distinguished for their well-being are far from being conspicuous for their artistic achievements. Without discussing further the conditions and components of welfare — a subject to be considered in a subsequent chapter, to which the reader is referred — it will no doubt be admitted without question that a healthy family life is essential to national prosperity, and conversely that the highest attained degree of well-being is a sign that points back to a family system that, in its main outlines at least, is the highest and best so far devised. In short, monogamy may be confidently accepted as the highest form of family life,[1] and thus as the embodiment of the rules of sexual temperance that would be observed by the virtuous man.

It is even possible to go a step farther and suggest the reasons for the superiority of monogamy. It is mainly in two ways that marriage can contribute to social welfare:

[1] And as the best for civilized peoples where the sexes are equal in numbers, and where intelligent sanitation and education make it possible to rear most children to efficient maturity. Where, on the other hand, one sex is much more numerous than the other, infant mortality is high, and education is inefficient, it is necessary to trust to the large number of offspring and to the weeding out by natural selection, rather than to efficient offspring, and non-monogamous forms of marriage may be better adapted to the conditions.

first, and most notably, by preparing children to become efficient members of society; secondly, by securing to husbands and wives a sheltered and peaceful haven in which to prepare themselves for their social duties. And the contributions of monogamy in both directions are much greater than those of any other marriage system. As to the first, it is plain than the important task of bringing up children who shall be healthy in body, mind, and spirit is best fulfilled by intelligent and self-respecting fathers and mothers working together in harmony. Under polyandry the father is subordinate to the mother's uncles and brothers, and the children are subject to their indifferent care and divided authority. At the other extreme polygyny degrades mothers, consuming their independence in the fierce fire of harem rivalries, dulling their abilities in slothful inactivity, repressing their intelligence for fear of revolt — in short, rendering them in every way unfit to take part in the care and education of their children. And, of course, any deflection from genuine monogamy has similar effects; every pseudo-family entanglement so far detracts from a parent's interest in the genuine family. And, on the other hand, while monogamy cannot give, it can and does in most cases foster rather than repress, parental intelligence, self-respect, and love for children. It is far from rendering parental harmony impossible, and often is the basis of the very highest examples of mutual affection and intelligent coöperation. And besides it has played a large part in sweetening, civilizing, and purifying life even outside of the family circle.

And, in the second place, monogamy gives the best opportunity for a happy, well-ordered, and healthy family life, if not indeed the best basis for a satisfactory life from all points of view. Only with monogamy does the home come into the world, and no other institution is more valued or has done more for mankind. Under no

other head is it possible to include so large and varied an array of deep-seated human satisfactions. It goes without saying that many homes are unhappy and ill-regulated. But it is equally true that the number of homeless men and women who have found happiness is relatively so small as to be negligible. The monogamous home does not insure happiness, but without it happiness is all but impossible. Moreover, happy parents give the most wholesome education. They set their children daily examples of willing coöperation, surround them with a sunny atmosphere of intelligent self-sacrifice, and in general typify for them the highest social activities. In giving parents their best chance for efficiency and happiness, monogamy gives children their best chance for wholesome education.

§ 4. Description of Monogamy

Passing next to a description of the monogamous system, it is well to remark at the outset that it is much more complex that is generally appreciated. Its general features are of course familiar: premarital chastity, fidelity of both spouses, support, and in general protection of the wife by the husband, with appropriate behaviour (at present very ill-defined) on the part of the wife in return for the support and protection received. Of the four fidelity and premarital chastity are much the most important, being indeed the distinguishing marks of monogamy. Support and protection by the husband is due, partly because of his industrial training, but chiefly because child-bearing and rearing incapacitate mothers for self-support during long periods in the prime of their life. And some fitting return on the part of wives is evidently called for.[1] But these four principles, even if fully described,

[1] In this chapter the monogamous system is being described only in so far as it regulates the relations of husbands and wives. In the chapter on justice a few words will be devoted to the duties of parents to children and of children to parents.

would only sketch in the system in its broadest outlines. For in addition there are countless laws and social rules and customs that define, hedge about, and protect the institution of monogamy. While only a few of these can be briefly described here, the chapter would be too incomplete if that much were not undertaken. For convenience and clearness these laws, rules, and customs will be described under two heads, the first including those regulating the conduct of unmarried men and women, the second those regulating the conduct of husbands and wives.

The Regulations governing the Unmarried. — The first group of regulations aims at preserving the *chastity* of the unmarried. The most obvious means employed for that purpose is the very severe condemnation of unchastity, and even of conduct that leaves the question in doubt. The young man, and especially the young woman, who consents to be placed in situations where virtue might well be lost or even seriously endangered, does so at the sacrifice of reputation or good name, and of all that is lost with reputation. But here, as elsewhere in serious matters, prevention is much more effective than punishment. "A code of manners has been evolved, none the less coercive because it is unwritten, which expresses the monogamous ideal with a measure of sway over personal conduct that depends on the level of refinement reached by each social circle. In its most developed form this code enjoins a certain reserve of behaviour in all intercourse between the sexes, an avoidance of every word or sign that could by any possible construction be thought to suggest or favour irregular relations. The virtue of modesty, which in this sense is, theoretically at least, applicable to both sexes alike, is cultivated as a guaranty of chastity.[1] Society realizes that the stream of passion is

[1] *Int. Jour. of Eth.*, April, 1899, "The Relations of the Sexes," by J. Oliphant. What follows in the text contains in different words several ideas suggested by this article. This footnote may be utilized to say a

strong if it gets under headway, and that the only safe general plan to adopt is to check it at its source in suggestive situation, act, or word.

Equally as important as premarital chastity is stability of the marriages that come to be contracted. And while many conditions must be fulfilled in order to attain that end, the principal among them may without violence be grouped under two heads, for, first, the spouses must be really congenial or have characters that will permanently appeal each to the other, and, secondly, they must be suitable or be so circumstanced financially, socially, and in other external ways that friction in their married life will be minimized. Neglecting for the present the second condition, it is evident that whether congenial or incompatible men and women come to marry each other depends in large part on the premarital relations of the sexes and the ways in which marriages are contracted. And in fact there are many rules and conventions regulating these relations as well as the mode of forming conjugal unions. The second group of regulations seeks for favour and encouragement, conduct that leads to *congenial* marriages.

Among these regulations may be mentioned those permitting and encouraging social gatherings including unmarried persons of both sexes, and in general allowing

word on the fact intimated by Mr. Oliphant, that chastity is valued more highly, and unchastity condemned more severely, in women than in men. The fact deserves frank, clear-headed, and unprejudiced consideration, but it cannot well be taken up within the limits of a text-book. Two points may, however, be mentioned. First, men cannot easily be shielded from temptation to incontinence without interfering with the independence and initiative that is of fundamental importance for them. Secondly, child-bearing and rearing is literally the business of most women's lives, and, if unchaste or unfaithful, they cannot perform this life work properly, because they cannot then claim the protection and support of their children's fathers; the unchaste woman runs a much greater risk of making her life a total failure than does the unchaste man. There is less excuse for the unchaste woman than for the unchaste man, but both are immoral. Cf. Sidgwick, *Meth. of Eth.*, Bk. IV, Ch. III, § 6.

young men and women to meet with well-regulated freedom and share together their enjoyments, their discussions, and their other interests. This free social intercourse gives young people a wide personal acquaintance with marriageable members of the opposite sex, and allows them to make their selection on the basis of such experience and knowledge as are permitted by their capacities. Less than a generation ago the interests shared in common were almost exclusively frivolous, such as dancing for example, but now they are coming to include healthy outdoor sports, intellectual and artistic pursuits, and even practical business enterprises. And evidently the more objective the interests that are shared, the more is character disclosed, and the better basis is there for intelligent choice.

Another body of regulations with the same aim seeks to attain it by insisting on a reasonable delay between first acquaintance and marriage, with the evident purpose of making the final decision as deliberate and well-considered as possible. Condemnation of overhasty marriages in part accomplishes the end sought, but a more effective means is found in the convention of courtship, a social adaptation of the instinct of coyness, which has the advantage of replacing punishment by prevention. The following account of courtship is taken from Mr. Oliphant's article already referred to: "Although this institution is found throughout a great part of the animal kingdom, and has a natural origin in what Darwin has termed 'the greater eagerness of the male,' it has in human societies gained a peculiar importance as a means of conveying social pressure. What was in the beginning the comparative indifference of the female in the choice of a mate has been transformed into maidenly coyness, a quality to which there has been gradually and unconsciously assigned a highly significant social function. Coyness is something quite distinct from modesty in the sense in which it has been used above. It is a somewhat inadequate name to express the fact that to

women has been granted the right to the final word in the expression of personal preference, and therefore that they have been constituted the guardians of dignified behaviour in the preliminaries of marriage. Public opinion has turned this opportunity to account by imposing a standard of manners which has the practical effect of delaying decision, and thus securing some guaranty against a hasty and ill-judged assortment."

It may be said further regarding the second group of regulations that mixed social gatherings and courtship allow, and serve their purpose only if they allow, the free choice of the contracting parties to play the leading rôle in the selection of conjugal partners. It is not considered either possible or proper to allow young people to see each other freely, and then to pay no respect to the attachments that naturally result. In fact where they are thrown together the more or less conscious purpose is to give them opportunities to form attachments, and this course is pursued because it is believed that there will be more congeniality, and consequently more chance for constancy, harmony, and content when marriage is based on unconstrained liking and choice.

It may also be said of the second group of regulations that many people think it is difficult to reconcile with the first group. For they conceive that freedom of association between the sexes is too likely to diminish modesty and seriously to endanger chastity. On this point there is much difference of opinion, and the difference of opinion is reflected by the notable difference between the etiquette of mixed social gatherings and of courtship in England, the United States, and the British colonies on the one hand, and in Germany, France, and Spain on the other hand. No doubt the differences of opinion are founded, in part at least, on differences of racial temperament, chaste self-restraint being all but impossible for some races in situations where it would not present very serious diffi-

culties for other races. But, however that may be, social conventions seek to allow as free association and courtship as are thought to be consistent with the maintenance of feminine chastity. The aims seem to be, first, to prevent sociability between unmarried men and women from endangering chastity, or even the modesty which is its safeguard, and secondly, to prevent exaggerated modesty, reserve, and protection from degenerating into prudery, stiffness, and seclusion, and thus rendering impossible the friendly acquaintance and wholesome experience that is the basis of a wise selection.

The mating of pairs who are *suitable* in financial and social position and in other external respects is the aim of a third group of regulations. And, unlike congeniality, which can best be passed upon by the interested pair themselves, suitability, because it has to do with relatively objective and impersonal facts, can best be passed upon by unprejudiced onlookers with as wide and deep a knowledge of the world as possible. Social opinion accordingly deprecates too curious an inquiry into prudential considerations on the part of the former, considering that it shows an unadmirably calculating and worldly spirit. But, on the other hand, it requires the experienced friends and especially the parents of the young people to judge discreetly of suitability, and to prevent unsuitable matches by all proper means, and in turn requires the wishes and views at least of parents to be treated with consideration and respect. As to the latter requirement it need only be said that it is a particular case of the general moral and social rule requiring respect for parents, though no doubt one of the most important cases in point, and further, that proper filial deference in this, as in other respects, diminishes with the diminishing utility of guidance by parents. For instance, as the age at which marriages are entered into rises, parental guidance is allowed by public opinion to become decreasingly influential. Normally,

however, parents exercise a large, though, in societies where the second group of regulations are observed, chiefly a negative, influence over the formation of marriage ties. Positively it is customary for them to add to their children's lists of acquaintances, but, at least when the second group is well developed, they do comparatively little directly to enlarge the latter's circles of friends, and even less, in an authoritative way, to direct their affections towards this or that object. The influence of parents and other experienced advisers is largest in disapproving the inclusion of undesirable acquaintances among friends or intimates, and, so far as parents and those standing *in loco parentis* are concerned, in exercising a veto upon unsuitable engagements. And filial affection joins hands with social custom in recognizing it as undutiful for a daughter or even for a son to marry in opposition to parental wishes. The result is, that older heads decide upon the suitable *partis*, from among whom young hearts are encouraged to select congenial mates, with the purpose of furthering marriages that shall be stable with the double assurance of favourable circumstances and mutual attractiveness.

It should be said, however, that it has proved as difficult to hold the balance even between the third and the second as between the second and the first groups of regulations. Where parental control is much esteemed it is easy to imagine that mature experience is as competent to decide on congeniality as on suitability, and where youthful feeling is highly valued it is but a short step to intrust it with unsupervised control. Moreover, the national line of cleavage has the same situation as in the case previously discussed, the continent of Europe lying on the one side, and the balance of the monogamous world lying on the other, the *mariage de raison* arranged by elders prevailing in Europe, and the romantic marriage more or less exclusively based on mutual attraction and youthful judgment prevailing elsewhere.

The most fundamental, and certainly the most subtly pervasive, of the social customs that protect monogamy fall under a fourth head. Briefly characterized they include all the social forces that transform sexual appetite into *romantic love*. The former is, in fact, in its bald simplicity, inimical rather than helpful to monogamous unions, for, as in the case of other crude passions, its gross and brutal intensity imports selfishness and transiency. All crude passions ruthlessly seek their own gratification, and once that is attained, they give place to satiety if not to disgust: following the law that intensity and persistency of feeling vary inversely. But, on the other hand, romantic love is at once permanent and unselfish, at least in its best examples. For, in the first place, instead of being an isolated appetite with no reliance except itself, it permeates the whole nature, spreading its warmth over all feelings, thoughts and impulses of youth or maiden. The lover and his mistress become adjusted each to the other, and may so grow in attunement that far into old age they will ring in harmony long after mere appetite is dead. And, in the second place, romantic love does not, and, when returned, need not, seek its own gratification. In most relations of life each cares chiefly for his own interests, and in the end the interests of all are cared for after a fashion. But the charm of romantic love is, that the interests of both are cared for, by means of the greater care of each for the interests of the other. No doubt perfect instances of romantic love are rare, if not lacking, but rough human approximations to the ideal form the groundwork upon which stable monogamous unions are supported.

At all events relatively successful monogamy is coterminous with the romantic idealization of womanhood, and of conjugal fidelity and mutual service. In Greece and the oriental nations both were absent, and in Rome they were imperfectly present; only since the birth of chivalry,

that unique graft of Christianity on the Teutonic temperament, has monogamy taken root in the world. And the special instrument of society to that end is literature and art generally, though peculiarly the former. Until recently most western literature has dealt almost exclusively with the romantic passion, and painting, sculpture, and music have given it a large place. The result is, that the youth of both sexes are brought up in an atmosphere that throws a thick haze over the grosser, earthy roots of marriage, and lights up the gracefully overarching branches for the happy play of wit and fancy. A thousand customs and seemly courtesies conspire to this end, and have become so ingrained in second nature that it would be difficult to enumerate them, if that were necessary. And even those so unfortunate as to be ignorant of art, and lacking in breeding, come under the same social influence in this matter, and sometimes, after their sturdy fashion, they live out the spirit of romance in simple wholesomeness. Science knows of many instances of beautiful products that have developed out of ugly and gross beginnings, but of these none is more remarkable than romantic love, and to none does civilization owe a larger debt.

Evidently the social customs that make for the idealization of the relations between the sexes have a closer affinity for those that make for congeniality than for those falling under the first and third heads. Indeed, unless congeniality is generally accepted in any given society as essential to marriage, idealization is likely to be inimical to monogamy. For congeniality is then likely to grow up beyond the conjugal limits, when idealization imparts to it a dangerous sanction. The opposite danger of founding marriage on unidealized congeniality, or mere appetite, does not exist as a social custom in societies at all advanced; the danger is too apparent for social approval of such a basis, though unfortunately individuals are sometimes unaware of it. In sum, then, there are two allied groups

of regulations that make for the idealized mutual attractiveness of prospective spouses, and opposed to them, a group that protects chastity, and a group that promotes suitability. The problem of the best premarital customs is the problem of the best adjustment of the four groups, and especially of the mutual adjustment of their opposing pairs.

The description of the four groups of regulations is now complete, and in this connection it is only necessary to add a word on the differences observed among the regulations that prevail in different countries. While the plan of the present discussion forbids the consideration of their relative value, it permits two remarks that will throw light on that problem. First, then, chastity, congeniality, suitability, and idealization as conducive if not essential to stable, monogamous marriage, are all four, together with the social customs that promote and protect them, demanded by morality. To attack any of the four, or any of the customs on which they rest, is to attack morality. And secondly, the family being so fundamentally important, a nation's customs in this matter are ultimately tested by its welfare, and proximately tested by such facts as the number of illegitimate births, separations, divorces, and cases of infidelity and of unhappiness. But the problem is so complex and the monogamous nations are so nearly of the same rank that it is difficult to secure these facts, and more difficult to institute fair comparisons.

Regulations governing the Married. — Marriage does not bring with it emancipation from social control, nor is the character of the control essentially different from that surrounding the unmarried. But owing to greater familiarity with the subject, gained from the last discussion, it will be possible to deal with it more briefly under the present head, although the regulations are no less complex.

In casting about for a mode of presentation that will insure inclusion of all the main heads, an examination of the

practice of monogamous countries in the matter of the grounds accepted as adequate for divorce suggests itself as the most promising procedure. Monogamous nations are deeply concerned to maintain all conjugal unions that can be maintained without too seriously injuring the deeper interests of mankind; and it is quite safe to conclude that only conduct which is incompatible with monogamy will be accepted as a sufficient ground for dissolution of the marriage tie. And, from the other side, it is also safe to conclude, in view of the rapid and generous development of divorce legislation, that no really fundamental neglect of marital responsibilities is omitted from among the grounds for divorce. This legislation accordingly furnishes an adequate list of the main classes of conduct that are reprobated in husband and wife, and, as it is easy to pass from a defect to its corresponding good quality, it suggests the conduct that society seeks to exact from those who have assumed the responsibilities of marriage. Moreover, it is possible and will be convenient to point out under each head the social customs that serve to promote the conduct which is approved. Of course the morality of divorce, and *a fortiori* of particular divorce systems, is not at present under consideration, though a word will be said on the subject at the end of the discussion. Divorce is being examined merely as a means of discovering the essentials of monogamy so far as the relations of husband and wife are concerned. This allows the consideration of grounds that are not everywhere accepted as adequate justifications for divorce. For although some monogamous states may consider it unwise to grant divorces on some of the grounds to be mentioned, it does not follow, and it is not true, that they therefore fail to disapprove of the conduct in question. On the contrary, it is safe to say that conduct which is regarded by any monogamous state as a sufficient ground for divorce, is conduct which all monogamous states unite in condemning as a serious

breach of marital duty. The grounds or causes of divorce will be mentioned in the order of their importance, as evidenced by the number of states that accept each.

While nullity of marriage is technically different from divorce, it naturally falls under the same general head, and is like divorce in indicating the breaches and corresponding fulfilments of marital duties. Besides it is appropriate to consider the subject here, for it is in the borderland between the regulations governing the unmarried and those governing the married. Roughly speaking, marriages are declared null and void on two grounds, either because they were not voluntarily contracted, or because they were not contracted in due form. Or, positively stated, society decrees that marriages should be contracted freely and without constraint, and that the wedded state should be entered into not hastily or inconsiderately, but in a deliberate, solemn, and public manner. In other words, society here interposes a final bar to hasty and to uncongenial marriages. Among the social customs with the same end in view, it is only necessary to mention the public wedding, with its engraved invitations, bridesmaids and attendants, and concourse of friends, all intended to herald marriage as a well-considered and quasi-official act of public rather than of merely private concern.

The generally, though not universally, accepted grounds of divorce are: adultery, desertion, failure to provide, cruelty, drunkenness, and crime. Of these adultery, either alone or in conjunction with one of the other grounds, is accepted wherever divorce is allowed. And the rest are important in the order of their mention. Nor should it be supposed that these grounds are accepted in only a few jurisdictions, for, on the contrary, there are only a few in which they are not accepted. The chief differences are in the matter of definition, as for instance, in regard to the length of absence that is necessary for desertion, or in regard to the specific unkindnesses that constitute cruelty.

Further, as was earlier suggested, each ground of divorce indicates an element of the monogamous ideal. The condemnation of adultery points to fidelity, of desertion to association and life in common, of failure to provide to financial support suitable to social station, of cruelty to mutual kindness and aid, of drunkenness to well-regulated efficiency, and of crime to conduct that respects law and morality. It remains to say a word on the social customs that promote and protect these elements of the ideal.

Fidelity, association of husband and wife, and their life in common are promoted and protected in a number of ways, as by social idealization of constancy, of motherhood, and of the home; by modesty and decency of behaviour that preserves mutual respect and prevents marriage from retrogressing on to the narrow basis of mere appetite; by countless customs that forbid and tend to prevent undue association or marked attachment between either spouse and any person of the opposite sex, besides, or in place of the other, and that hedge about the sanctity of the home against too familiar intrusion; and by the condemnation of habits and interests, whether in husbands or in wives, that tend to estrange either from the home or from mutual association.

Financial support, though exacted in legal theory, is not in practice exacted legally or socially of women, and indeed the husbands who accept or are dependent on the support of their wives generally forfeit the respect of their fellows, at least among the more wholesome social classes. And in general it is by a similar withdrawal of respect, and also by the more general demand, urged in many ways, that men shall earn their own living, that society brings pressure to bear upon men to support their families.

Mutual kindness and aid is enjoined by public opinion, and instilled by the chivalric ideal and by the social traditions and code of manners that find expression in gentle breeding. And all the sanctions of morality stand behind and support well-regulated, law-abiding, and moral lives.

On the subject of divorce in general space limitations will permit only two remarks. Well-tested and deliberate public opinion has reached the conclusion, as voiced in all but universal legislation, that some marriages are so nearly nominal, are so defeated by persistent infidelity, or by neglect and abuse of mutual duties and privileges, are so detrimental to the property interests, personal interests, happiness and usefulness of either or both of the spouses, and of their children, that the best interests of society demand their dissolution at law, in recognition of their dissolution or perversion in fact. But, on the other hand, it is recognized that easy divorce leads to ill-considered marriage, that the latter in turn leads to increase of marital failures and divorces, and so on in endless chain. The problem therefore is, while allowing divorce, carefully and wisely to define its grounds. But this problem is as yet unsolved, and, while there is an abundance of material throwing light on this and that aspect, an examination of the evidence is too complicated and extensive an undertaking to be entered into here.

And now, casting a glance backwards over the description of monogamy, it is not a little surprising to see how complicated is sexual virtue, consisting as it does in control, at once firm and discreet, of thoughts, words, manners, habits, and interests the most intimate as well as the farthest reaching. The man who sets out to be sexually temperate constantly finds himself performing actions that seem at first sight to concern anything else more than they do the sexual appetite — actions that range all the way from well-mannered behaviour, through outdoor sport, to business transactions. The entire social fabric is fashioned with a view to the maintenance of monogamy, and the life of every individual down to the minutest details is influenced by social pressure, and, if he is virtuous, is in accordance with the most enlightened public opinion. The inadequacy of the definition of sexual temperance in terms of

self-control, or in terms of the golden mean, must now be apparent. To be sure, when indulgence is allowed, it is confined by the requirements of virtue within the bounds of moderation and of self-control. But the striking fact is, that, in presence of all but a very few opportunities for indulgence, virtue is not satisfied with moderation and self-control as before defined, but prescribes abstinence, and even abstention from thought or word about indulgence. In sum, therefore, there are two chief characteristics of sexual virtue: first, it includes many actions to which it is apparently but remotely related; and secondly, the self-controlled and moderate indulgence it allows stands out from a far-reaching background of abstinence. It will be interesting to note how these two characteristics reappear in the other departments of temperance.

§ 5. Temperate Eating

The problems connected with the appetite for food are rather prudential and economic than ethical. For, as has already been suggested, instinct, and the many and varied interests that spring up in civilized society, are strong enough to hold the food appetite well under control. It accordingly happens that social customs and the code of manners succeed in confining eating to stated times, and in preventing the indulgence at meals from being over-eager or grossly large. Intemperate eating is not unknown, but it is the exception, and is so little of a problem that the lesser forces of prudence are commonly left to deal with it unaided. Injudicious eating is much more prevalent, but that is generally a matter of financial misfortune, or else of hygienic ignorance, with which morality is only indirectly concerned. It may be noted that the two characteristics of temperance mentioned in the last paragraph reappear in the present connection. Temperate eating is made possible by decidedly elaborate domestic arrangements, which restrict eating to times and occasions where

there is the least danger of intemperance. It is because the common meal is fundamentally a family function that overeating is so rare.

§ 6. Temperate Drinking

Turning to the appetite for strong drink, great difficulties at once appear. Between pleasure and the promotion of sociability on the credit side, and the resultant inefficiency, pauperism, and crime — to mention only the most strikingly injurious results — to be charged up against alcoholic overindulgence, society is unable to decide. Every plan so far adopted to control drinking in order to avoid these dangers has proved unsuccessful because too large a number of men have thought that social pleasure and sociability were being unduly curtailed. In other words, an influential minority, if not a majority, have insisted that in devising regulations for the purpose of protecting society from injury, care should also be taken to preserve for society those advantages that from earliest times have flowed from drinking.

It can be said, however, that intemperate drinking has notably diminished, and, what is more important, has fallen into more general disrepute, during the last two generations. Hard drinking, for instance, is much less common, and among men in prominent positions it is so unusual as to excite remark when it is indulged in; in striking contrast with the amount of hard drinking that prevailed unrebuked in high social and political places before the middle of the century. This result is probably due in the main to two causes. First, with the phenomenal advance in science, very much more is known of the injury done by the intemperate drinker both to himself and to society. For instance, by aid of the statistics that are being constantly collected and studied, it is possible to prove that intemperance is one of the potent causes alike of inefficiency, of pauperism, and of crime. And this knowledge

is being followed by its natural effects, as is shown, among other things, by the growing practice among business men of refusing to give employment to those who indulge in excessive drinking, debauchery, or gambling, on the ground that such employees are comparatively inefficient and unreliable. And secondly, immoderate drinking has decreased because active substitutes and rivals have grown up. Suggesting these succinctly, thirst can be conveniently quenched in most towns and cities by means of non-intoxicating drinks and by means of the less alcoholic malt liquors; and the pleasures of excitement, exhilaration, and sociability can be had in the form of the many outdoor sports that are growing so rapidly in public favour.

But, in spite of the decrease, it still remains true that the rudimentary requirements of temperance, moderation, and the maintenance of self-control are very widely disregarded in the matter of drinking, more so than in any other one direction. Moreover, the evils of excessive drinking afflict the classes that are least able to bear them, those burdened with an undue tendency towards inefficiency, thriftlessness, and crime, one or all. In the interest of social welfare a remedy is demanded, and it may be allowable to suggest, for what it is worth, that hope seems, so far as the present investigation throws light on the subject, to lie in concerted movements along four lines: (1) increase of information on the subject; (2) further development of substitutes and rivals for intoxication; (3) idealization of drinking, on analogy with the romantic marriage, and its transformation into a family and friendly function with similar safeguards to those surrounding the common meal; and (4) abolition or modification of the saloon, so that it will not thrust temptation on men at every turning, while withdrawing them from all deterrent influences. No item of this scheme is novel. The first and second already exist, though undeveloped; the third exists at its best in Germany, though capable of improve-

ment even there; and the fourth has been strenuously urged, though probably in too extreme a form, in the United States. What is needed is that all four should be harmonized and crystallized into an organic body of social customs, similar to that which surrounds the marriage system.

§ 7. Temperance in General

There are many desires besides the three or four appetites so far discussed, and some of these desires are very strong and unruly, in many men more so than the appetites themselves. Among them may be mentioned desires for money, fame, rank, success, and indeed all the human interests and objects of ambition suggested in a former chapter. The only rules of temperance that apply to all desires, including the appetites, are the rules of self-control and moderation, already formulated, and what may be called the rule of individuation, to be described immediately. Of these the most important is the first, for the man who has lost self-control is like the rider of a runaway horse; it is a mere matter of chance if serious calamity does not befall him. The third rule springs from the concreteness of morality, which addresses itself to each individual singly, allowing to each exemptions, and laying on each exactions, that are allowed to and laid on no other. More exactions in the way of ordinarily recognized temperance are laid, for instance, on ministers and teachers, because of the influence of their examples. And, for reasons that will repay investigation, greater license is allowed literary men, and especially artists. These are illustrations of the general rule that each man must live his own moral life in detail, and live it at his peril.

Moreover, it is true of each of the desires that its proper regulation calls both for many actions and abstinences in which the desire itself is not immediately concerned, and for utter abstinence on a host of occasions. Social rules

and customs, though never trustworthy in all details, offer, in well-regulated communities, the best guidance in these respects. For instance, the methods of the most respected business men in any community normally embody the wisest regulations of the desire for money under the conditions that there prevail. And this suggests the observation, which has probably already occurred to the reader, that after a few general rules have been laid down, the morality of temperance is rather a matter of ideals, as embodied in the highest exemplars, than of rules.[1] But ideals can be found by those who choose to seek them.

Finally, looking out upon all indulgences at once, and considering that all that are proper at all must be allowed in due measure, and remembering the far-reaching complexity of marital regulations, it appears that temperance, viewed in its entirety, can find its only adequate embodiment in a well-planned and well-ordered life. The plan must be comprehensive, sufficiently firm-fibred, and sufficiently flexible, allowing each desire its proper indulgence in the long run, though only on proper occasions, in proper company, and in proper manner, on general analogy with the marriage system. Without such a plan, consciously or unconsciously adopted, temperance does not exist. By such a plan the virtuous man would naturally and easily rule his life.

[1] Cf. Ch. VII, VIII, and XV.

CHAPTER XII

Benevolence

§ 1. Introduction

The last two chapters have dealt with the virtuous will, attempting to describe the control the virtuous man would firmly maintain over his desires and aversions, whenever these latter, if uncontrolled, would lead him astray. The present chapter is concerned with the desires and aversions themselves, with the feelings, or, to use the most comprehensive term, with the unforced inclinations that would characterize the virtuous man.

Before coming to close quarters with the subject, it will be well to clear away a possible source of confusion. As here used, benevolence includes all inclinations to objectively moral conduct. This is an extension of popular usage, according to which benevolence is equivalent to good-will or the inclination to benefit, there being no single word to designate ill-will, or the inclination to oppose or injure. Of course, in spite of the absence of such a word, there are morally approved feelings of the latter kind, as instanced in righteous indignation, disapproval, desire to punish, etc. On appropriate occasions all these and others like them are morally incumbent feelings, which the virtuous man would not be without. And as they fall in the same class with the various species of good-will, it is convenient to discuss them in the same chapter. By regarding the first part of the word "benevolence" as an adverb, and considering that to be benevolent is to feel properly

or appropriately inclined, this extended meaning will easily be held in mind.

It is natural enough for the popular mind, when thinking of the control of inclinations, as in the case of courage and temperance, to pick out for consideration only the strong appetites and aversions that peculiarly need control; and equally natural, when thinking of advantageous inclinations, to pick out those that are relatively weak and need encouragement, giving little thought to the inclinations that are believed to be strong enough to take care of themselves. But here it will be necessary to keep in mind all inclinations, whether needing encouragement or not, and among them hostile feelings.

It will also be helpful to gain a general idea of what the natural inclinations are. And for this purpose it will be convenient to divide them into two classes, the first including the propensities, the second the feelings, and to subdivide each of these into two subclasses, the first including the favourable, the second the unfavourable. In the case of propensities, the impulsion comes from within. They are based on automatic as distinguished from reflex actions. But, on the other hand, men have feelings towards outer objects, and feelings have their basis in and give guidance to reflex actions, and to the higher forms of action that develop out of reflexes, after the fashion shown in Chapter IV. Among unfavourable propensities may be mentioned shrinking from pain, from nameless dread, and from over-exertion; among favourable propensities, restlessness or spontaneous activity, and the bodily appetites dealt with in the last chapter. Propensities are sufficiently, indeed, unduly strong, as was there seen. And, while they are essential to life, individual and social, they are chiefly in need of regulation. As space is limited, they may be dismissed from further consideration here.

But feelings must be considered at some length, first hostile feelings and then friendly feelings. Only feelings

towards persons and quasi-persons will be considered, as feelings towards things are important for ethics, only in so far as they lead to conduct that affects persons of either kind. In the case of each class of feelings, there will first be a historical sketch, and then a discussion of the feelings of that class regarded as virtuous by leading peoples of to-day. It is difficult to know what feelings are approved or what feelings are disapproved, but it is easier to discover what deeds are allowed, enjoined, and approved respectively, and through that medium it is possible to infer the opinions entertained towards the various feelings.

§ 2. Hostile Feeling

The objects of hostile feeling may conveniently be divided into three classes for separate treatment, — external public enemies, internal public enemies, and private enemies. As societies advance in prosperity, in enlightenment, and in wisdom, the third group tends to be assimilated to the first and second, — the only enemies of the truly virtuous man are public enemies, — and the feelings entertained towards enemies tend to incite to forms of hostile conduct that are humane while remaining none the less effective.

Hostility to External Public Enemies. — As attention moves upward from the lowest to the highest types of human society, hostility decreases in scope, in continuity, and in intensity and virulence. Among the lowest savage hordes and tribes warfare is practically continuous; it is waged against every adjacent tribe collectively, and against each of its individual members, men, women, and children; and it is waged with a ferocity that not only allows but calls for fierce delight in the agonies suffered by tortured enemies. Savage tribes below the pastoral level need a wide range of country from which to obtain the bare necessaries of life, and their survival depends upon their ability to diminish the number of mouths to be fed, by exterminating rival tribes as thoroughly as oppor-

tunities permit. If they could domesticate animals, a lesser area would suffice them; and if they were capable of even a rude husbandry, their enemies might more profitably be spared to become slaves. But many generations are needed before these arts can be learned, and meantime the need for food is pressing, and the two alternatives are to exterminate or to be exterminated. From the beginning of organic life there has been the same tragic choice for those desiring to survive, to become efficient, a matter of no little difficulty, or to be cruel. Efficiency then being so slow a growth, in early days it is the fierce and cruel in action that survive, and the fierce and cruel in action are the fierce and cruel in feeling. Readers who care to consult the works of trustworthy travellers will find that savage victors, practically without exception, kill all foes who fall into their hands, and besides reserve the more prominent leaders for torture. It is not easy for the civilized man to form any adequate notion of the savages' fierce delight in bloodshed and suffering. Nothing familiar to him is at all comparable to it, unless it be the absorbing interest taken by some boys, passing through the savage stage, in the torture of animals.

Among barbarians, especially those who have passed from the pastoral into the agricultural stage, notable changes appear. Instead of being continuous, wars are separated by considerable intervals of peace. Alliances, not unknown among higher savage tribes, are commonly formed and kept with neighbouring states, thus limiting the scope of hostility to adjacent states with which no alliances exist. The scope of hostility is further reduced by the fact that war is carried on not by the whole adult male population on either side, but by the military class alone, the bulk of the people continuing their ordinary peaceful pursuits, in order to furnish the food and other needed supplies. Finally, the conduct of the combatants, and especially of the victors, is very different from what it is among savages.

First, in the usual order of time, captured women and children are spared, next non-combatants are enslaved instead of being slaughtered, then torture and insult of vanquished warriors are in turn abandoned, then the freedom and, much later, the property of the inhabitants of conquered territory are first respected and next protected, and finally the soldiers of opposing armies are treated as mercifully as is consistent with the achievement of victory. Only the earlier stages of this evolution of humanity are reached by barbarians, the later appearing only among civilized nations.

It would be impossible to fix exactly the date when warfare first began to become civilized. But probably 1648, the date of the Peace of Westphalia, is less arbitrary than any other year that could be selected. For the agreement then entered into was the first important practical step towards the establishment of an international law regulating the intercourse of nations in peace and in war.

As a matter of rudimentary, unsystematic, and unauthoritative custom, international law, if under those conditions the name is deserved, is as old as human associations. Intercourse has always taken place among societies, and in this respect, as in all others, custom fixes decidedly intricate, though up to civilized times relatively ineffectual, rules and ceremonial. Indeed, some of the practices of the Greeks and many of the practices of the Romans exist in the present code of international law. Yet it is only in the last two and a half centuries that any consciously devised and quasi-authoritative system of rules has come to govern nations in their conduct towards one another. Again, as a matter of theory and speculation international law was a familiar conception many years before 1648. To say nothing of incidental mention by other thinkers, some ante-Christian, and, during the present era, some ecclesiastical and some secular, Grotius, the acknowledged founder of international law, wrote in the first quarter of

the seventeenth century, his *De Mari Libero* appearing in 1609, and his great work, *De Jure Belli ac Pacis*, in 1625.

But it is more than doubtful whether even that great treatise could have inaugurated the beginnings of international law without the assistance of the peculiar conditions that prevailed during the Thirty Years' War, especially the fully experienced inconclusiveness of war as a means of deciding the bitter disputes that then distracted Europe. In any event, the first decisive step was in fact taken at Westphalia, and the march there begun has proceeded with little interruption — the Napoleonic wars being the most retrogressive period — in literal truth up to the present day.

Impressive as has been the steady advance of international law in defining the rights of sovereign states, its greatest achievement consists in the explicit recognition that foreign states have rights entitled to respect. For this recognition raises conflicts between states from the plane of might to the plane of right. No doubt even now might often masquerades as right, but the fact that it has to adopt that disguise is of itself significant of the attitude of public conscience, and prophetic of future developments in the intercourse among states. And, as international law has become more firmly established, and has spread to regulate the relations of states with increasing adequacy, international problems have in fact tended to become judicial problems, in which precedents were to be consulted, and the rights of each of the parties considered duly and without arbitrariness. The relations of nations used to be like those of individuals in savage days, when every man and his family were ready to attack or to defend themselves from every other man and his family, and, in many respects, like the relations of individuals in lawless mining camps to-day. Now relations between nations are, normally, like those existing between business men in peaceful but active communities. Selfish interest

is sought, actively sought, but lawful methods prevail in place of lawless methods. In other words, the method of negotiation and contract has all but completely superceded the older method of resort to physical force. And the progress thereby achieved in international dealings can best be realized if it is likened to the magnitude of the progress made from the days when every man's hand was against his neighbour to the present régime under which contract and obedience to law so largely determine the relations of man to man.

Of the two branches of existing international law, dealing respectively with peace and war, that dealing with war and the steps leading up to it is of greater concern in the present connection; and, it may be added, that branch is by far the larger. In the main this larger part of international law has served two purposes; (1) it has sought to make war the last resort, a remedy turned to when all other means of accommodating difficulties have been tried and have failed; and (2) it has sought to reduce the inconveniences, horrors, and sufferings of war to the minimum that remains compatible with its office as a drastic means for the settlement of international difficulties. A few words may be said regarding each of these aims of international law.

The principle at present recognized in international law is, that while war is sometimes unavoidable, and even just, yet it is never justifiable unless a peaceful solution of the difference has been sought by every means that could appropriately be employed. The possibilities of peaceful adjustment are not in fact always exhausted, but the recognized principle demands that they should be, and civilized public opinion is ranging itself behind the principle with increasing effectiveness. A government that plunges into a war that might have been avoided without sacrifice of essential rights, is held to account at home as well as abroad. Among the generally recognized methods of

amicable accommodation may be mentioned compromise, mediation, commissions of inquiry, and arbitration. The term "compromise" has its usual significance, and definitions for the others can be found in any good text-book on international law.

Among the other contributions of international law towards the peaceful settlement of disputes between nations may be mentioned the attempts made to distinguish just from unjust wars, with a view to bringing enlightened public opinion to bear upon nations contemplating the latter. It is generally recognized that all peaceful means having failed, it is just for a nation to wage war (1) in order to secure what belongs to or is due it; (2) in order to provide for future safety by requiring reparation for injury done it; and (3) in order to protect itself and its property from genuinely threatened injury. And there are other causes of war that are, though with some question, recognized as just. Important to note is the fact that the attempt at definition is being made, and that, however just wars may come to be defined, the principle is fully recognized that nations too must have their "quarrels just."

Passing to the second service of international law, its contribution to the decrease of the horrors, inconveniences, and sufferings of war, it may in general be said that the aim is to limit the conflict to hostile fleets and armies, and besides to diminish the sufferings of sailors and soldiers as much as is compatible with the decisiveness of war. The *theory* of international law still is that each belligerent is at war with every individual of the opposed nation, and has the right to injure their persons and property at will. But the universal *practice* among civilized nations, largely supported by treaty provisions, is very different. While the persons of non-combatants and private property are theoretically at the mercy of the enemy, a large measure of mercy in those cases, and even in the case of com-

batants, is generally practised, and is recognized as a duty.

Persons who take no part in the war and make no armed resistance, are generally safe from hostile attack on their lives and personal security, and also on their liberty, subject always to military exigencies. Subject to a few reasonable exceptions, private property on land is exempt from seizure or confiscation, though practically any property, public or private, if found at sea or afloat in port, may be taken as lawful prize. Neutrals are of course spared the actual sufferings of war, and besides may be gainers in securing some of the commerce of belligerents. And the treatment of combatants has lost much of its old-time harshness. Prisoners of war are granted quarter. They are generally exchanged, are in the meantime supported, and are given, or should under international law be given, as liberal and humane treatment as military, financial, and other essential conditions permit. Again, only humane instruments and methods of warfare are sanctioned among civilized states, a ban being put upon poisoned weapons, explosive bullets, and in general upon whatever adds to the cruelty of war without conducing to its termination. Finally, no obstacle is put in the way of tending the wounded. By the convention of Geneva, 1864, all hospitals and ambulances were declared neutral, and thus secured from attack by any belligerent.

And now, a few words are necessary, (1) to show that the conduct towards public enemies approved by international law is the soundest basis on which to found a conception of moral conduct in that sphere, and (2) to describe the feelings that would most conduce to that conduct, *i.e.* the virtuous feelings towards public enemies.

As regards the first point, the general principle involved is that a study of the practices of the best agents offers the most effective and scientific means of discovering moral conduct in any field. This follows from the very nature

of conscience itself. For it will be remembered, conscience is the record in the individual of the conduct that appeals to him as the highest, and conscience is therefore truest to its function when it accepts the highest conduct observable in any field as its guide. By accepting such a guide, moreover, an escape is possible from the vagaries and meagre theories of mere thinkers, out of touch with practical affairs, and incapable of estimating the issues actually involved. International law, for instance, has been slowly evolved as a result of the cautious agreements of foreign ministers and ambassadors, all men in a position to be well acquainted with the effects of each provision on the vital interests of their respective nations. And while no doubt in time better machinery will be devised for settling upon international conduct calculated to further the best interests of all nations, it is too plain to need argument that no solitary thinker, shut out from public life, can hope, except by the merest chance, to suggest genuine improvements on the operative system of international law. The thinker of wide reading, calm judgment, impressive personality, and high ideals often does assist the makers of international law to devise improvements; chiefly because he can correct, by means of his easier outlook and larger hopes, the cynicism that their life, with its stress on human frailty, inertia, and blindness, engenders. But his suggestions are never incorporated into the system in the form in which they are made, and the system would not be improved, *i.e.* the general welfare of nations would not be increased, if they were.

Of the plans so far devised, the one that in genuine truth can do the most to further the general welfare of nations, is the plan that at present works in practice, and that is the plan therefore that Ethics is seeking for description. For it is not the function of ethical science to assist statesmen in improving international law; its proper function in this field is to describe the system of international conduct

that scientific probability designates as that which will best further the common welfare of all nations. At the present time international law best describes that system, and Ethics must follow the description given.

And now what feelings towards foreign nations and their citizens or subjects will render obedience to international law easiest? Evidently blind hate, blind prejudice, blind haste to decide, any blind passion or habit makes obedience difficult, if not impossible. Complex, vague, and essentially indescribable in its details as is the emotional nature that would most spontaneously assist to realize the spirit of international law, its essential characteristic lies clearly in view, and consists in the substitution in place of blind passion or inclination, which is entirely absent, of reflective and controlled feeling. Fierce, stern, determined, severe, persistent feeling is, on proper occasion, quite in place. But headlong, unreasoning feeling is always vicious.

And, while in detail virtuous feeling towards alien nations and peoples cannot be described, some further specification is yet possible. First, just as municipal law assumes that, opportunity having been provided, individuals will defend their rights, so international law proceeds upon the assumption — without which it would be absurd — that each nation may be relied on to maintain its rights and defend its interests, while leaving the protection of other nations to their own self-interest. The virtuous man accordingly constitutes himself part guardian of his country's rights. He is determined that no right shall be sacrificed through default of proper defence on his part, but rather that every right shall be defended by every legitimate, practicable, and sensible means. Recognizing how international law is growing up, he is even inclined to help modify the law — by non-observance if necessary, which is the only possible method where, as often happens, treaty is not available — if, deliberately and of full assur-

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ance, he is convinced that any given provision is unjust to his country. But the virtuous man has a healthy sense of proportion, and is aware that different rights are of differing importance, and are therefore respectively entitled to more and to less energetic defence. War, for instance, is a possible remedy only if the right infringed is very important. The virtuous man is not inclined to mend a penknife with a trip hammer. Secondly, however serious the injury to his country, warlike feeling is slow to assume turbulent proportions in the virtuous man. Of equal strength with his determination to defend his country's rights, is his determination to defend them by peaceful methods if that is at all possible. Of course, this does not mean that he would continue to pursue peaceful methods, if war was ultimately inevitable, and would be more merciful and more likely to be successful if engaged in at once. A surgeon should resort to a painful and dangerous operation, if delay would only necessitate an operation more painful and more dangerous. And similarly the virtuous man would not reject the heroic method of resort to war, if at any time milder methods would be relatively ineffective.

Probably the highest type of the advocate is the best example of the virtuous man in international relations. His office is to look out, according to his station, for the rights and interests of his country, and his assumption is that the citizens of other countries will look out for theirs. The virtuous man would, accordingly, defend his country as he would himself, with quiet dignity, with effectiveness, and without effort disproportionate to the emergency. But, if it is asked whether the virtuous man would always be the advocate of his country's action, the answer must be in the negative. For the virtuous man has two aims, first that his country's rights shall be respected, second that his country shall respect the undoubted rights of other nations. And, with human nature

as it is, this dual purpose may compel the virtuous man to oppose his country's action. If all citizens were judicial and judicious, all would insist on respecting both the rights of their country and the undoubted rights of its rivals. But human nature is not so constituted, and accordingly there are often two parties on international questions, with virtuous men in both. Indeed, the decision of these questions in the interest of welfare is most likely to be attained when they are fought out by opposing parties within each of the nations involved. Men with certain endowments can best advocate their country's rights, men with others, the rights of its rivals. Virtue is possible to men on either side, and virtuous men are needed on both sides.

Hostility to Internal Public Enemies. — Much has been written about criminal law and about the punishment of criminals, and in outline their history is not difficult to trace. In general it may be said that four purposes have, in succession, dominated in the treatment of criminals and of those accused of crime. At first the central aim was to wreak vengeance, then to threaten and inflict such heavy penalties as to deter from crime, then to protect society from criminals by putting them where they could do no further harm, and finally to reform criminals, and thus to help them and society too. The sketch to be given presently will make this development plain. Meanwhile it should be said that while it is convenient to speak of internal public enemies as criminals, the designation is not accurate for early times, nor indeed until the dawn of civilization, for up to that time there were no criminals, properly so-called, and that, on the other hand, with the appearance of civilization, and even now, there are many internal public enemies who are not recognized as criminals, and whose acts are not specifically designated as crimes on the statute books. But after this explanation the public enemies in question can be called criminals without confusion, and the practice will be adopted in the

present section, as there is no other single word that conveys the meaning so well.

In early times the only crimes punished were those against the authority of a chief or king. He and his rules had been outraged, and he and his officers saw that the penalty was paid. No doubt his authority was supported by society generally, but yet the affront, though to a person in authority, was to him personally. It thus happened that in early times criminals were treated in the spirit of private vengeance. Harm had been suffered, and the natural impulse was to do harm in return. Thirst for vengeance called out for satisfaction, and there was little care and not much concern to discover the probable cause of the injury, to determine the guilt or innocence of the person picked out, or to devise just or effective measures of punishment. Hatred and vengeance were aroused, and they, unaided, were the instigators of action.

But a change began to appear when the criminal courts arose. And as the origin and development of the criminal courts in England is well known, and is typical of their origin and development elsewhere, the history of that process may be sketched here, to give an idea of the process in general. In England criminal law had its origin a little before the dawn of civilization, the only crimes recognized and punished in the beginning being those committed against "the king's peace," or on "the king's highway." The theory was that the king had been disturbed and his authority defied. Accordingly, only outrages committed at or about the seat of the king's residence and on his highways were treated as crimes. But later the king's judges were sent farther and still farther on circuit, till the whole land was, or was sought to be, protected by the king's peace. And with the establishment of courts acting in the name of the king, and their activity in dealing with crimes throughout the kingdom, quite a change of spirit appeared, thirst for vengeance, which is a personal

feeling, giving way gradually to a stern determination to suppress crime, which is an official feeling. Thus, with the growth in regularity and power of the king's courts, deterrence came to be placed alongside of vengeance as an aim in the punishment of criminals. Death, mutilation, torture, unwholesome dungeons, starvation, neglect, each and all came to be inflicted upon the apprehended criminal, and even upon the suspect. In England the king's courts began about the time of the Norman conquest, and not long after that deterrence appeared as a leading purpose. In time it came to be the chief aim in punishment, and continued to be such till nearly the end of the eighteenth century in England, though prevention, and even reformation, had earlier been recognized as proper ends in dealing with criminals in Holland and Belgium. To indicate the severity of punishment in his day Blackstone pointed out that there were some one hundred and sixty capital crimes, among them grand larceny, which consisted in stealing a sum greater than twelvepence, embezzlement of a master's goods by a servant, burning sacks of corn or other farm products in the night-time, killing horses, sheep, and other domestic animals, even malicious tearing or defacing of garments of persons passing in the streets. To be sure, in Blackstone's day, criminal procedure had been improved, and accused persons had some chance to defend themselves, and had the benefit of counsel and of much more rational rules of evidence. Compurgation and wager of battle had long since given place to trials, with the examination of witnesses and some investigation of evidence. But these are rather questions of means. The prime end was still deterrence.

The first noteworthy advance in England beyond the deterrence principle was inaugurated during the last quarter of the eighteenth century by John Howard, in his successful advocacy of humane treatment for criminals and other prisoners. Taking advantage of the opportunities for

observing the state of prisons given him by his office as sheriff, he visited all the jails and prisons of his shire, then those of England, and finally those of the continent of Europe. His examinations were very careful, and were made during two round trips over the extended field indicated, the second being undertaken because, by the end of the first, Howard was convinced that his inexperience had led him into many errors of observation and judgment. The prisons he found to be foul, damp, underground for the most part, and devoid of sanitary care; the food was scant and unwholesome, and the prisoners were entirely at the mercy of their jailers. The details are too revolting and inhuman to bear recounting. Summing up the results of his observations, Howard made several reports to the English Parliament, and, in addition to being voted the thanks of that body, he had the satisfaction of seeing the enactment of two practical measures of reform, by which fees were abolished, and better sanitation provided for. Both of these acts were eminently practical. Prior to the first all prison expenses were paid out of the fees extorted from the prisoners, who were consequently entirely at the mercy of their jailers. Frequently men and women entirely innocent of any offence against the laws were kept imprisoned for an indefinite period, because they could not pay up their prison fees. After the passage of the act prisons and jails were maintained at public expense, and those in charge of them were put on salaries. Two provisions of the second act, that prisoners should be put in underground dungeons only when no other course was possible, and that cells should be scraped and whitewashed at least once a year and kept clean in the intervals, will give some idea of the rudimentary reforms it undertook to accomplish. Even in England other attempts at reform were made before Howard's, but his were the first to bear practical fruit.

Out of the small beginnings made by Howard, and by

philanthropists of his type in other lands, have grown the gratifying improvements that have been made in the treatment of criminals during the present century. In all civilized countries the prisons are now sanitary, the food is wholesome, if simple and not overattractive, and accused persons are given ample opportunities to prove their innocence, opportunities so ample that there are some misgivings lest mercy to them be pushed to the point of indifference to social welfare. And interest in further improvement is very great. The science of criminology undertakes to investigate all facts pertaining to crime and criminals, the science of penology all pertaining to punishments and their effects. And besides there are many associations and congresses that concern themselves with investigations into various phases of the problem of crime, and with more immediately practical endeavours to aid in its solution. Even the influences that lead up to crime are studied, and attempts are made to counteract them and to rescue their victims from the danger of becoming criminals. Then trials are considered with a view to making them fair, punishments are considered with a view to making them just to criminals and to society, and the conditions in which discharged criminals find themselves are studied, and attempts are made to improve these conditions, with a view to giving discharged criminals as good a start as possible, and society the best chance possible of recruiting efficient workers.

And the trend in these movements throughout civilized countries is plain to see. Vengeance and deterrence are no longer leading considerations. It is seen that the suffering of the man who has injured others of itself helps no one. It hardens the criminal, and besides cultivates an inhuman spirit in the injured that lowers him and hurts society. And the methods of deterrence by cruel punishment and threats are seen to be ineffective, for they have been given full trial and have been found not to deter. In place of

these aims two others have appeared to take the leading place. The first aim is to protect society from men who show by character, training, and acts that they will almost surely injure society, and even to give such education and training as will tend to prevent the young from becoming criminals. The second aim is, wherever it is at all possible, to reform criminals and transform them into useful members of society.

And these two aims, so characteristic of the most advanced and wisest nations, indicate plainly the nature of benevolence in this field. The attitude of the benevolent men would of course in general be one of hostility to criminals, for by definition they are members of the state who injure the state. The inclination of the virtuous man would be, on appropriate occasions, to prevent crime by thwarting the criminal, to protect society from the criminal, and to transform the criminal into an honest man. But hostility to criminals would not be undiscriminating, nor would it be blind. In the first place, as was seen in discussing responsibility in Chapter II, there are two kinds of criminals — those who are dangerous but blameless, and those who are both dangerous and blameworthy. The first are like storms and famines, or, better, like microbes, wild beasts, snakes, and other animals who are dangerous through no fault of their own. Where the choice is between lesser suffering to them, through incarceration or some other method of protecting society, and greater suffering to society, through a weak leniency to them, the former is evidently the proper course, and the one the virtuous man would be inclined to pursue. And where reform is possible, the advantage to the criminal and to society justifies a considerable infliction of suffering and inconvenience on either or both to accomplish that desired end, and the benevolent man would not shrink from inflicting what is necessary. But towards criminals of this type the benevolent man would feel no indignation and no sense of con-

demnation, any more than he would towards a storm or a famine. He would not desire that they should smart, or experience a sense of remorse, any more than he would desire such feelings in the man-eating tiger, for neither is to blame, and to feel blameworthy would be to feel inappropriately. But where the criminal is to blame the attitude of the benevolent man takes on an added severity. He condemns the criminal, has a feeling of righteous indignation towards him, desires the punishment to sting, and hopes that remorse may arise as the condemnation of the criminal in his own breast, for such a criminal is to blame, and until he feels himself to blame moral progress is impossible for him. All this is plain from Chapter II.

But, in the second place, hostility to the criminal never makes the virtuous man blind to the criminal's rights or to the wrong-doing of society. If society is unjust to the criminal, it becomes a wrong-doer, and as such deserving of the hostility of the benevolent man, while the criminal becomes the wronged, and as such entitled to the three kinds of protection mentioned as the due of society in the last paragraph. And, again, it is by the contest of parties that opposing rights are each maintained as human nature is. So here, as in the case of public hostility, the benevolent man may defend the rights of the criminal against the wrongful attacks of society's representatives, or may take the part of society against the criminal, doing the one or the other, depending upon the party in which he, the benevolent man, happens to belong in different cases.

Briefly, the benevolent man is hostile to crime and to criminals, but his hostility is discriminating, is clear sighted, is impartial when there are crimes on both sides, in a word, is judicial.

Hostility to Private Enemies. — The general principles of enmity are by this time plain, and, as these principles are not essentially different in the case of private enmity, extended treatment of this case will not be necessary.

At first enmity suffered gives rise to the crude demand for vengeance. Suffering is demanded in return for suffering experienced. Little care is taken to identify the injurer, to settle his responsibility for the injury, or to decide on the punishment to be exacted. The question at that early time is not one of rights but of feelings.

But coincidently with the growing up of the criminal courts, private enmity becomes a judicial matter. It must be carefully ascertained whether the injury suffered was unwarranted, what man was responsible for it, and what redress is legitimate. Some cases are still allowed to be settled without the intervention of the courts, but cases of grave injury must be settled by the courts. And the judicial spirit is demanded in all cases, whether settled in or out of court. Of course the judicial spirit is not always shown. Indeed, in some case of extreme stress it is considered all but humanly impossible to act in a judicial spirit at the present stage of advancement. At present judicial action in some cases of insolent injury is a counsel of perfection no doubt. But it must be remembered that the perfectly or objectively moral man is being described, and of his judiciousness there can be no doubt.

What has been said of judicial and reflective decision must not be allowed to obscure the fact that the best practice and opinion give evidence that some wrongs call, and always will call, for immediate, and at times violent, redress. Whatever he may or may not be, the virtuous man is not deficient in spirit. But to have spirit is not to be injudicious, in this any more than in any other case. The wrongs that call for immediate remedy are sufficiently familiar, and the virtuous and well-poised man, without need for thinking them out afresh, recognizes them at a glance, and partly knows, partly feels, what is the best remedy for them. In the cases under consideration, actions, to be judicious, must, among other things, be prompt and strong. And in fact the actions of some of

the most eminent judges show these two characteristics to a marked degree on appropriate occasions. The problem of prompt remedy is but one out of many similar problems, but there is no space to consider any others here.

To state the conclusion in a few words: (1) the virtuous man experiences private enmity, but only towards wrong-doers, *i.e.* those guilty of unwarranted injury, from whom he has suffered in person or in some other private interest; and (2) virtuous private enmity does not override the rights of the wrong-doer. In other words, the enmity of the virtuous man is aroused when the rights of man are attacked in his person, and then, while he imposes on his assailant the responsibilities, he also respects in him the rights of man. A man's hostility towards those who attack society does not cease to be virtuous when society is attacked through him. But hate is swallowed up in condemnation, anger in indignation.

And there are the same limitations here as in the two cases previously considered. It is generally best that wrong-doers should arouse the hostility of the wronged. This is the principle of the courts, which secure redress for private wrongs only when asked to do so, and no other more effective principle has so far been devised. But the injured man has the right of forgiveness, and occasionally when injured the benevolent man feels no hostility, but, on the contrary, is the advocate of his injurer. And such advocacy may be for the general good. Christ so acted on many occasions, and the beneficial consequences of his actions are being felt to-day.

§ 3. Friendly Feeling

In passing from the lowest savages to the most highly civilized peoples, *i.e.* from the least to the most prosperous communities, friendly feeling among the members of the communities is seen to change in two ways, (1) each individual's friendly feeling is seen to spread out over an

increasing number of persons, and (2) the feeling comes to attach itself not only to individuals, but to a growing number of increasingly efficient organizations and institutions within each society. These two developments will be taken up in turn.

The Broadening of Friendly Feeling. — Even among animals friendly feeling exists, as is instanced in the affection and mutual service in families and among members of the same bands. But friendly feeling there is very rudimentary. And among savages sympathy for others is narrow, shallow, and brief. Suffering in other groups is not considered at all, and suffering within any group is considered only by the family or household of the sufferer, and even by them consideration for the sufferer will not stand a long or a heavy strain. One of the most striking things about savages and lower barbarians is that among them there are so few aged, sick, or maimed. But, while this gives an appearance of healthier life, the fact is that those mentioned are not observed because they are allowed to die of want or exposure, or are killed, as are all those who are incapable of caring for themselves and who are of no use to others. Such inconsiderate treatment springs partly from necessity no doubt, being called for by the precarious conditions of existence, and, in case of savages, by their nomadic life. But, however necessary it may be, callousness to suffering is what makes this inconsiderate conduct possible.

With higher barbarism and civilization the classes mentioned appear. Indeed, it may be said that they soon swarm. For, coincident with earliest civilization, Confucianism, Buddhism, Christianity, or Mohammedanism appears, and these religions strongly urge the duty of helping the needy and ailing, making many promises to the charitable, and among them the promise of great rewards in the life to come. Thereupon mendicants, many of them impostors, become distressingly numerous, and at first the broadened

sympathy is merit-making rather than genuine. But through listening to the appeal of the suffering from lower motives, and because of the influence of other forces already suggested, sympathy in time comes to be genuine. And friendly feeling broadens so that it extends beyond the family and takes in other members of the group who seem to be suffering, until among modern civilized nations anyone suffering distress or injustice can rely on the genuine sympathy of his compatriots if he can only get their attention.

And friendly feeling does not stop at national boundaries. Distress in any country, *e.g.* in England, France, Germany, the United States, awakens sympathy in the other countries, in so far as it is known by their peoples. Many of the humane provisions of international law are inspired almost as much by sympathy for suffering humanity, as by the selfish concern of each nation for its own well-being. In striking cases, and when weaker peoples, *e.g.* the Indians, the Cubans, the Boers, the Armenians, are concerned, the sympathy that is felt often degenerates into sentimentality. Indeed, sympathy and kindness do not stop with mankind, but extend downward and are felt towards animals. Societies for the prevention of cruelty to animals exist in nearly all the larger and in most of the smaller cities, and anti-vivisection societies are not uncommon.

And further evidence, cogent if indirect, showing the spreading out of friendly feeling is to be found in the steady growth in size of integral or sovereign communities, as advance is made from savagery to civilization. This is well shown by the following table borrowed from Mr. Sutherland's *Origin and Growth of the Moral Instinct* (Vol. I, p. 366):—

Lower Savages,	average of 8 races,	40
Middle Savages,	average of 6 races,	150
Higher Savages,	average of 33 races,	360

Lower Barbarians,	average of 30 races,	6,500 ; towns up to	1,000
Middle Barbarians,	average of 35 races,	228,000 ; towns up to	20,000
Higher Barbarians,	average of 61 races,	442,000 ; towns up to	100,000
Lower Civilized,	average of 23 races,	4,200,000 ; towns up to	250,000
Middle Civilized,	average of 8 races,	5,500,000 ; towns up to	400,000
Higher Civilized,	average of 30 races,	24,000,000 ; towns up to	1,000,000
Lower Cultured,[1]	average of 14 races,	30,000,000 ; towns up to	6,000,000

Among the lowest savages the average society numbers some 40 members, while among the most advanced peoples the average society numbers some 30,000,000 of inhabitants. Again, and equally significant, is the number of inhabitants in urban settlements. Among savages there are no towns ; among the "cultured" it rises to 6,000,000. It goes without saying that much besides friendly feeling — for instance, suitable experience and aptitude for working harmoniously in political, industrial, and other organizations — is needed to hold large societies together. But, if not the only factor, friendly feeling is a fundamental and indispensable characteristic for any society which is to be at all securely unified. There must at least be among the members of such a society so much absence of hostile feeling as will prevent them from indulging in systematic mutual attack upon one another; and there must be sufficient good-will to insure mutual assistance in case of need. When during the war of 1894 it appeared that the bulk of China was indifferent to, indeed scarcely cognizant of, the Japanese invasion, all competent observers discovered that China was an empire in little more than name. And history furnishes many another example, though none probably is any more striking than this one. In short, since friendly feeling among its members is one of the factors necessary to hold any society together, the

[1] Mr. Sutherland's classification is more detailed than usual, and contains a class, the last, that is not commonly recognized. But for the present purpose of showing increase in size of communities, as they grow in well-being, these minor differences are unimportant. What Mr. Sutherland calls cultured peoples, the text calls highly civilized and well-to-do peoples.

larger a well-unified society is, the broader is the spread of the friendly feeling (the adjective being used in its largest sense) among its members. Or, to put the same truth in another form, only as friendly feeling attaches itself to a broader range of persons, is it possible for societies to increase in size without falling asunder.

Nor is it difficult to discover why increase in size is followed by advance in civilization and well-being. Of course civilization and well-being follow only when increase is not purchased at the cost of well-knit unification, — in other words, only when the increase in size is permanent, and not a temporary increase succeeded by disruption of the larger society, and consequent decrease in size. Again, it must be remembered that it is not size merely as a mathematical fact that makes for civilization and prosperity. But size, given proper organization, means relative security from external attack, and also internal variety and consequent resource. Whether a society grows from its own loins or by absorption of adjacent population, either by immigration or by treaty or conquest, the society is more powerful among other integral societies, provided it can manage its increased bulk effectively. For, whichever the mode of growth, a greater variety of territory is levied on for the satisfying of human needs, and a richer variety of individuals are exercising their capacities to the same end. In larger societies, which are otherwise efficient, more wants are supplied in more resourceful ways, and the resultant satisfactions can be enjoyed in greater security.

On the whole, the evidence is amply sufficient to show that as men have grown in civilization and prosperity their friendly feelings have become more catholic, until now the majority of civilized men feel a humane good-will towards most of their fellows, and towards many animals. This humane feeling is no doubt for the most part dormant, and probably it is inaccurate to say that it is actually felt, but the feeling is dormant because each man knows and

sees but few of his fellows, while it is real in the sense that as occasions present themselves the feeling in fact appears.

Loyalty to Organizations. — In an earlier chapter something was said of the natural human interest in quasi-persons, which are chiefly organizations. Recalling that discussion, it is now to be pointed out that that interest, rising at times into fervid devotion, is an ever growing and increasingly effective form of good-will.

Among the lowest savages these interesting organizations consist of the family, the horde or tribe, and a few mystical societies with semi-religious purposes. When savages of a higher type and barbarians are observed, it is found that the governmental machinery has become less centralized, and includes a number of subordinate bodies that perform their respective shares of political work, and that each of these bodies commands the devotion of some men. And it is also found that within the state many secret societies, with religious and juristic functions, have grown up, and that they also command a devotion from their members that is, very naturally, largely tinged with fear.

In the most advanced nations, secret societies that resort to intimidation tend to disappear; but the number of organizations that arouse the sympathies and incite the energies of men notably increases, and the functions many of them perform are of very great importance. "America," says Professor Giddings, "is sociologically a vast plexus of free associations, most of which are perfectly free in their objects and methods."[1] And the same may be said of the other advanced nations, though *free* association is especially characteristic of America and England.

Dividing the organizations under discussion into the non-voluntary, into which men are born, and in which as human beings they must continue, and those which are free and voluntary in their initiation and in their management, under the first head may be grouped the major and minor politi-

[1] *Elements of Soc.*, p. 200.

cal units — central government, states or provinces, counties, municipalities, etc., and the family, while under the latter will fall free political, juristic, economic, and cultural associations.[1] The nature of the governmental organization, and of the various bodies of which it consists, and the nature of the family are probably plain. Nor is it necessary to point out the interest that men take in the efficiency and prosperity of these bodies. Interest in the family has already been discussed. And without a minimum of devotion to it, government could not exist, while the greater the interest in and devotion to the government of any state, the greater, other things being equal, and provided the government is reasonably efficient, the prosperity of the state, and the greater the efficiency with which it can serve the interests of its members.

Passing to voluntary organizations, the state must be mentioned first. For the state, as distinguished from the government, is consented to by its component members, if not deliberately devised by them. Without the loyalty of the people, no state could hold together, and loyalty consists precisely in voluntary devotion to the state. Ranking after the state, among political associations come political parties, large and small, clubs partly political and partly social in purpose, societies for political reform, *e.g.* those interested in the civil service, in voting methods, in the temperance problem, in tenement-house conditions, etc. Among economic associations may be mentioned organized bodies of employers and employees, partnerships, corporations, trusts, labor unions, federations of labor, etc. Juristic associations include boards of arbitration, societies aiming to secure the enforcement of laws, *e.g.* those regarding cruelty to animals, the employment of children in factories, the issuance of licenses and the closing of saloons, and also secret societies of a law-

[1] The classification of associations follows Professor Giddings's *Elements of Soc.*, Ch. XVIII.

less character, which, however, are as a rule thought to be for the public good by their members, *e.g.* the Ku Klux Klan, the White Caps, societies of anarchists, etc. Cultural associations are very numerous. They include churches, educational institutions, charity organizations, fraternal associations, and a great many others.

All the associations, whether expressly named or merely indicated, are bodies of men organized with the purpose of ministering more efficiently to some chosen interests than would be possible by isolated and unorganized endeavour. Devotion to these organizations and earnest interest in the fulfilment of their purposes is but an indirect mode of devotion to and interest in the human and sentient beings who are their chosen beneficiaries. Through the instrumentality of associations each man can reach a large number of his fellows whom he could not hope to assist were he to undertake the task alone. Interest in associations is thus an indirect but highly effective form of good-will. Through the state, for instance, and its agent the government, individuals can benefit their fellow-countrymen, and, as history has recently shown, those who are not their countrymen or even members of the same race. His government is man's best though not his only instrument for aiding humanity and ministering to the advancement and happiness of mankind.

It appears, then, that in proportion as societies advance there is a wider spread and an increasingly effective organization of friendly feeling: men come to be actuated by friendly feelings towards a larger number of their fellow-beings, and they come to resort to organization as a more effective method of rendering the assistance to which their feelings prompt them. Moreover, that this dual development of human nature makes for the general good is plain, alike because benevolence is commended as a cardinal virtue, because mutual sympathy or good-will is evidently one of the strongest forces making for the cohesion

of society, which itself is the most potent instrument for the increase of welfare, and because the nations with this important endowment enjoy the greatest well-being. So much has been insisted on in several places, and needs no further discussion.

§ 4. The Benevolent Individual

But nothing has so far been said to indicate what inclinations will actuate each benevolent individual. Evidently each individual does not experience a like measure of benevolence towards all his fellows, nor a like measure of interest in all organizations. Indeed, if every one made it his business to help every one else, and if every association had a membership including all mankind, much less would be accomplished than actually is. It is only by specialization and division of labor that efficiency can be attained. The questions accordingly are, What individuals and organizations must a man devote himself to in order to be benevolent? and, What principles must be adopted in selecting the persons and quasi-persons to whom a special good-will is to be shown?

Three points may be considered sufficiently plain. (1) The benevolent man feels well disposed towards all men and other sentient creatures, and towards all organizations that aid them. The welfare of all sentient beings is the ultimate end, and any one who without cause bears ill-will to any other, is in so far not benevolent or objectively moral. But on the background of this general good-will stand out special feelings that vary from man to man, and constitute the individual characters of benevolent men, feelings that in the main fall into two opposed classes. For (2) the benevolent man will feel hostility in reply to unjust attack on himself or on any other person or interest for whose defence he is responsible, and (3) each benevolent individual will feel partiality or preferential good-will towards certain individuals and institutions.

As to hostility probably enough has been said. In the virtuous man hostility only arises when it is justified by wrongful injury, and then the remnants of rights to which the injurer is still entitled are respected, and the remnant of good-will necessary for such respect is still experienced.

And as to preferential good-will, the facts are plain enough in outline, and no serious difficulty will be experienced in reaching a conclusion which will be satisfactory as far as it goes, if not very concrete. There are namely certain preferential feelings the benevolent man is expected to have, and on the whole these feelings have changed remarkably little from first to last. These feelings will first be mentioned, and then the principles of selection manifested in them will be pointed out.

Special Good-will. — It is not usual to class special interest in self as a benevolent feeling, but evidently it is a fundamentally important favourable feeling, and as such falls under benevolence as the word is here used. It is important because on it in part the whole of society is organized. This was pointed out in discussing hostility to private enemies, and besides is plain of itself. Sentient welfare is made up of the welfare of each of the sentient beings, and the best way of securing the latter is to make it the business of each to secure his own welfare; no one else can, on the whole, do so as well. Besides, there has never been a time when reasonable interest in self was not commended, as is seen from the fact that those who have not protected themselves have always been held in some contempt, as being deficient in spirit.

And no less important than special interest in self is special family feeling. Parents and children who have not a special affection for one another are regarded as unnatural, and as unvirtuous and unbenevolent besides. Nor could a society long survive in which special family feeling was absent.

Friendship is another feeling present in the benevolent

man. When he admits congenial persons to intimacy, he is expected to be specially inclined towards them and ready to serve them, and is further expected to remain loyal to them as a friend, unless they lose claim to his friendship because of their conduct. It is impossible to specify the amount and kind of good-will, the extent to which loyalty would go, or indeed the number of friends that the benevolent man would have. But a man who has no friends is not thought benevolent, any more than is a man who is not fond of his friends or who gives them up too easily.

Very similar are the requirements of benevolence with respect to the feelings to be entertained towards organizations voluntarily joined. A man who is not actively interested in any beneficent free organization is thought to be unduly self-centred, indifferent, and unsocial. And of course the benevolent man will have a special interest in the organizations to which he belongs and will be loyal to them. As to which he shall associate himself with, that his inclinations must decide. There have been times and places where public conscience required membership at least in a church, and others where membership in a political party was required, but it is hard to say whether or not the former is still considered essential to benevolence, while the latter probably is not.

Again, benevolence has always called for special good-will to neighbours, compatriots, members of the same race, human beings, and the living, as such, and also special good-will, *e.g.* patriotism, to the organizations that undertake to serve the interests of these fellow-beings. There are reasons for preferential good-will in each of the cases mentioned, which can be easily seen, and which moreover will be pointed out presently.

Finally, benevolence has always required gratitude for benefits received, and also pity or effective charitable feeling towards those in special need.

There are other forms of emotional partiality, but they are either special cases of those mentioned, or else are relatively unimportant, and in either case do not require specific mention.

Conditions justifying Special Good-will. — And now, passing to the principles of selection operative in the preferential feelings mentioned, two principles will be at once apparent: first, that special good-will should be relative to the structure of society, and second, that it should approximate to the inclinations of normal human nature. As to the first principle, special interest in self, in family, in country, all the special interests mentioned are in harmony with the structure of society, and are justified for that reason. Moreover the form that each species of benevolence takes from time to time varies with the structure of society. The special form of family feeling approved during the prevalence of polyandry, or that approved when polygyny prevails, is not approved when the family is on a monogamous basis, nor is the monogamous form of family feeling appropriate under polyandry or polygyny. The patriotism of the benevolent subject of a monarchy is out of place in the citizen of a republic. The neighbourliness that becomes rural settlers is not called for from citizens of a large municipality. The hospitality that characterized days before travel was general and hotels plentiful is no longer required to-day. Of course society must have structure. Amorphous and unorganized rabbles of men cannot serve welfare or any other end. But if natural feelings and inclinations war against the structure of society, they war against welfare, and are therefore malevolent, though not necessarily consciously so or malicious.[1]

And as to the second principle of selection, a glance at the list will make it apparent that the preferential feelings approved approximate the normal endowments of human

[1] To be inclined to change the structure of society in the way of improvement, is not to war against the structure, but against its defects.

nature, and a little further consideration will make it plain why only these approximations to normal inclinations are considered benevolent. For, in order that society should have structure, it is necessary that there should be a prevalent type of character, leading to normal modes of action. Without such a basis of agreement in the characters of its members, no social structure can be securely established. And it naturally follows that any too considerable variation from the normal emotional character wars against the social structure and against welfare, and is therefore unbenevolent. And, of course, the benevolent man not only approximates to the normal feelings of man as a human being, but also to the special normal feelings of the nation, and even of the community to which he belongs.

But, while these two principles of selection are dominant, and any special feelings that do not accord with them are unbenevolent, four minor principles may also be detected.

In the first place, only approximation to normal endowment is required, and a considerable deviation is still consistent with benevolence. Individuality and specialization are as useful in feeling as in action, and in fact they are useful in the former because they are useful in the latter. John Howard, the greatest of prison reformers, mentioned in § 2, was abnormally deficient in family feeling, but his compassionate good-will was so well developed in his chosen field, that, while he probably failed of perfect benevolence, his approximation to that virtue was certainly closer than that of any but the most virtuous men. It is for the general good that the bulk of men should be endowed with closely similar inclinations that will therefore be normal, but it is also for the general good that there should be individuals here and there with great concentration of emotional interests in some directions, and consequent deficiencies in other directions. Voluntary associations, formal and informal, offer the principal outlets for unusually strong inclinations.

And, in the second place, the opportunities of each individual normally point to him as the fittest to care for himself, for his family, for his friends, for his neighbours, for his compatriots, for his country, for the members of his race, for human as distinguished from other living beings, and for his contemporaries. Thus special opportunity to aid seems to be another, and a very obvious, though not an imperative, ground for requiring preferential good-will. Voltaire's advice to "cultivate your garden," and George Eliot's similar advice to do the duty nearest to hand, are far from exhausting morality, but they do suggest one of its components. Moreover, the principle justifies itself. For where each takes advantage of opportunity, the available human energy will, other conditions being equally favourable, make the greatest possible contribution to the welfare of all. Of course special opportunity does not merely consist in spatial and temporal contiguity. Among other things, there must in addition be knowledge of the opportunity, and ability, indeed special fitness, to take advantage of it.

And, in the third place, special feeling on the part of each individual is called for towards those who have performed, or give promise of performing, special services for him or for interests in which he is concerned. The benevolence of gratitude rests on this basis of desert, and special feeling towards self, family, friends, countrymen, etc., also normally rests in part on it, as special service is likely to come to each individual from these sources. Again, admiration for ability, respect for high endowment, etc., fall under this head. For, even where men of ability and high endowment have not yet performed special service, they give promise of doing so, and in so far have what may be called potential desert. Not infrequently potential desert calls forth greater good-will than actual desert, for man's admiration for exceptional powers is very great, and no doubt the preference is as a rule justified. But, with-

out discussing that question, it is evident that the general good is promoted by encouraging the serviceable rather than the unserviceable members of society.

Finally, on the benevolence of charitable feeling, *i.e.* of special good-will to those in special need, there is no need to enlarge. For centuries charity and benevolence were considered synonymous, and by some they seem to be so considered to-day. In justification of this special feeling it may be suggested, that the greater the need is, the greater the service, that the potentialities of human nature are sufficiently great to render it advisable to help men who have lost their footing on to their feet, and to learn thereby how to prevent similar failures in the future, and that every human being is sacred and his welfare a proper object of concern.

Of course it sometimes happens that two or more, possibly that all of these six principles of selection are satisfied, and the greater the number satisfied the more assuredly benevolent is the preferential friendly feeling. Where special good-will is an entirely natural feeling, is harmoniously accordant with the social structure, is a normal human feeling, is aroused on occasion of a special opportunity for service, and is experienced towards a deserving person who is in special need, the feeling, provided it is appropriate in kind and degree, is fully benevolent. And where less than all six conditions are fulfilled, it is securely benevolent in proportion, roughly speaking, to the number fulfilled.

But, on the other hand, there are cases of conflict among the conditions. A preferential friendly feeling that is out of harmony with the social structure, say such a feeling towards a foreign country, or towards another man's wife, or towards an utterly unworthy object, is likely to be unbenevolent, even though the person arousing the feeling is in special need, or a special opportunity presents itself.

And, on the whole, it will be observed that the princi-

ples determining what preferential friendly feelings are benevolent are far from concrete and exact. But feelings are too indefinitely bounded to be susceptible of exact description. A benevolent man may be identified when he appears, but the plans and specifications of benevolence cannot be fully set down, for benevolence is once for all a matter of example rather than of precept. Moreover, in order to insure perfect beneficence, the feelings must be supplemented and guided by the will and the judgment, and what the characteristics of the perfect judgment are, has yet to be specified, so far as may be, in the next three chapters.

CHAPTER XIII

Justice

§ 1. The Problem

The main purpose of the chapter is to discover the qualities that characterize the just man. But we shall here seek to accomplish that purpose by discovering and describing just and unjust conduct. This will be the best course because justice is a virtue of the intellect, for a man is just in so far as he has a comprehensive idea of the system of actions that constitute objective morality. To be sure, unless a man is also brave, temperate, benevolent, and wise, he cannot be just, but with the fact of the interdependence of the cardinal virtues we are already sufficiently familiar. In addition to having a comprehensive understanding of the system of just conduct, if a man is to be just, he must have the will, the inclination, and the wisdom to put his knowledge into practice: let that fact be stated here once for all. Moreover, it will be remembered that justice consists of knowledge of a code, in contrast with wisdom, which consists of insight into an indescribable ideal. The just man knows the relatively settled, recognized, and definite system of actions that makes up objective morality.

Now this system of actions with which the just man is to be familiar is very complex and comprehensive. The just man must know the boundaries in all directions beyond which a man may not transgress without doing injustice or wrong to others. He must know what is

wrong or unjust, and that with respect to every man, including himself, and every class of men, with respect to men in all the various relations of life. And the just man must also know what rights men have to the services of their fellows, what of a positive nature each man must do for all other men and classes of men. The just man, in short, knows the rights that each man has relative to all other men, and all the breaches of rights and duties that constitute wrongs. Such a system of ideas is extremely extensive and complicated.

How then is ethical science to frame a systematic idea of these mutual rights and duties, that will be accurate, *i.e.* make no mistaken inclusions, adequate, *i.e.* omit no essential elements, and objective, *i.e.* authoritative, or something more than individual opinion?

One thing is plain. No solitary thinker can hope to succeed, whatever his acumen, his breadth of view, and his cautious determination to make only such statements as are fully objective. At least no solitary thinker can succeed without aid from some objective source. No man can evolve a satisfactory scheme of justice out of his own inner consciousness.

As in the case of any other phenomenon, justice can best be studied in its best examples. And, objective justice being that system of actions that best ministers to social welfare, the best systems of justice so far devised are the systems that prevail in the nations that enjoy the greatest welfare so far achieved. Such systems do not embody ideal justice, but they do embody the nearest approximations to ideal justice that is open to human observation and study. No doubt the justice that prevails among the angelic hosts is superior to any devised by man. But unfortunately we have no way of observing angelic justice.

Following this mode of approach it is not very difficult to select with sufficient accuracy the nations whose

welfare is the greatest. In all essential respects the European nations of to-day, together with their offshoots on other continents, give evidence of enjoying sounder judgment and greater welfare than any other peoples of the present or past. This is true whether consideration be had for the security of life, limb, and property, for the wide prevalence of economic and of consequent physical well-being, for popular enlightenment and scientific activity, for virtuous and efficient character, or for all combined. Doubt is occasionally expressed as to the preëminence of the nations mentioned in art and religion, but it is not seriously asserted that they are far behind their predecessors in these respects, nor is it maintained that, when all things are duly considered, the deficiencies, if they exist, are sufficiently marked to relegate the European nations to an inferior rank.

But little danger as there is in selecting the systems of justice of these nations as more thorough and trustworthy embodiments of justice than any others the world has seen, the next step, consisting in the effort to discover what these several systems are, is an extremely difficult one to take securely. To mention only a few among the difficulties, each of the nations has a system of its own differing more or less from other systems; the life of each nation covers many years, in some cases several centuries, and each system has constantly changed and is still changing owing to education, legislation, and other causes; and each nation is made up of millions of individuals, no two of whom, probably, would agree in describing its system of justice. Moreover, the practices of the many millions of individuals differ widely. And of course it is the systems that actually prevail that have been declared to be the best working systems so far devised. It is not the systems that men think about and talk about and demand in conversation. It is the systems that they actually work into their actions in the everyday business of living that affect the welfare

of nations. That is what was approved as the highest example of justice, that was to be studied and understood. It is sufficiently difficult to describe such a system as it exists in one nation, and the task would seem to be more complicated still when a comparative view of the subject is desired.

§ 2. Legal Justice as the Basis for a Description of Moral Justice

Indeed, the task would be far too vast for human powers were the problem to be solved *ab initio*. But fortunately this is not the case. In its system of laws as administered by its courts, every civilized state has an actually operative system of justice. And the most practical plan, a plan on the whole very satisfactory, is to rest back on this legal system in framing our ideas of moral justice. Of course legal justice cannot be gulped down as a whole, or transferred as it stands and in its entirety into treatises on Ethics. Caution must be observed and limitations pointed out, as will be done presently. But legal justice is the best basis on which to found an accurate, adequate, and objective or authoritative notion of what justice is. Some reasons of a general nature in justification of this assertion will first be advanced, and then the relations of legal and moral justice will be more specifically discussed.

General Reasons for accepting Legal Justice as the Basis. — In the first place, the plan is practical. Difficult as it is, it is still possible to discover the principles of justice as administered by the courts. The courts keep, and always to some extent have kept, records which can be studied. There are codes, digests of opinions, reports, and other sources where the principles of legal justice can be spelled out. Moreover, there are legal text-books and treatises of a more general character, to which the untechnical student can turn for information. All these means for acquiring knowledge of the law are difficult to use and understand.

But with patience even the untechnical inquirer can understand a great deal with regard to the principles of legal justice, and by coöperation between students of morals and students of law, much will no doubt be eventually accomplished.

Besides, the mode of approach suggested simplifies the task of discovering the systems of justice of the civilized nations in another respect. Not only, in place of countless individuals, does it substitute comparatively well worked out and plainly recorded legal systems as objects of study, but in fact it reduces the systems to be studied to two. Incalculably as the European nations vary among themselves in other respects, their legal systems all spring from two sources, the Roman and the Teutonic. The English common law, so called, is the purest and most natural development of Teutonic justice; in it the Roman admixture is probably slight. In France, Germany, Austria, Italy, and Spain the Roman or civil law is the basis, though it has been more or less modified by Teutonic customs and institutions. In England's self-governing colonies the common law prevails, as it does in the United States, with the exception of two or three states first settled by France or Spain, where some features of the civil law are retained. Accordingly only the civil and the common systems of law need be considered.

But there are other and more positive reasons for basing the objective conception of justice on legal justice. And these will be better understood if it is first pointed out that the principles of legal justice are not due to crude legislation, as might be thought at the present day, but to the continuous and coöperative attempts at doing justice in concrete cases that have been made by the courts during the centuries of civilization. The principles of legal justice, both in the civil and the common law, are judge-made, and they are valuable because judges have been men much above the average in ability, and with unex-

celled opportunities, and the strongest incentives for reaching accurate, adequate, and reliable principles of justice.

Judges and lawyers, from whose number most judges come in settled communities, have large knowledge of the rights that various men conceive themselves to possess. They are not, as ethical writers are, under the necessity of thinking out the rights of men, with little aid from without their own thoughts. Their daily business consists in listening to claims of injury to persons and property, and to petitions for redress, that are opposed with equal vigor by the very persons against whom the complaints are made. Disputes — suits, as they are called in legal language — arise because men differ as to their rights relative to each other, and it is with disputes that judges and lawyers regularly deal. The number of views regarding rights and liabilities that have been brought to the notice of the courts during the centuries it has taken to develop both the English and the Roman law is incalculably large ; and any of these views might have influenced, and the more important did permanently influence, the law.

Moreover, the courts have unusual opportunities for hearing the opposing claims to rights clearly, adequately, and persuasively presented. Although a class of trained advocates does not appear in every land, or in any at the beginning of its history, it appeared early in Rome and in England, and in both alike exercised large influence over the development of legal justice. By this means each party to every suit has had a trained representative of his choice, competent to bring to the court's attention the facts, laws, and judicial practices that made for his client's claim, and to present them in a persuasive form. Naturally advocates differ in ability, and many causes are but indifferently represented. But as a class lawyers have ability above the average ; and besides, each suit is instituted as time goes on by many plaintiffs, and fought by as

many defendants, and it goes hard if any plea or defence does not frequently have the services of able advocates.

Again, in deciding a case, the mind of the judge is not solely confined to that case. His experience, his legal reading, and the arguments of the advocates on either side, inform him of important similar cases, and of the law as declared therein, and also recall to him the familiar principles of law and equity. Nor are the decisions of any judge free from the criticism of his successors, with the implied possibilities of revision. Each judge is critical of his predecessors, and subject to the critical judgment of his successors in office. Decisions are engaged in a continual struggle for existence, and only the fittest, only those that ultimately commend themselves most highly to the judicial mind, survive.

Finally, judges, especially the higher judges who settle the law, are held to impartiality by an exceptionally strong public opinion; and moreover, they have no personal acquaintance with most litigants, and are seldom tempted to be partial. To be sure, they come mainly from the upper classes, and share their prejudices. But other learned men are in much the same plight, and ignorant ideas and accounts of justice are not less prejudiced. In fact, there is little serious reason for holding that judges have unduly favoured the powerful classes. On the whole, they have played the part of defenders of the weak rather than the part of abettors of the strong. Indeed, during the formative period of the English law, the chancellors, or, more precisely, the kings from whom they held office, largely depended on the masses to strengthen their hands against the powerful barons who chiefly threatened the kingly power. Judges, both Roman and English, were but human, and the justice wrought out by them is undoubtedly imperfect, but there is little risk in declaring that no other systems of justice so far conceived by man are any less imperfect.

These are some of the reasons briefly stated for basing the account of justice on the law. The case could easily be made stronger, but the weakness of the alternative remaining, if this plan be abandoned, renders this unnecessary. Aside from the courts, there nowhere exists a sustained and coöperative effort to work out the idea of justice into detail, and if we turn from them we must go to the other extreme, and depend on individual experience, learning, and insight. No doubt individuals of no inconsiderable wisdom and justice exist, but no individual can compare, either in experience of the many conflicts of interests, or in apprehension of principles of justice, with the combined and coöperative experience and insight of the long line of judges. If ethical investigators are to build better than jurists, it must be on the foundation laid by the latter. The unaided conclusions of an ethical writer are sure to be meagre, abstract, and, because of their slight basis of experience, prejudiced by theory.

But though legal justice is a secure basis on which to found moral justice, the consideration of a few of the important differences between law and morality will serve to suggest the uses of legal justice most profitable for ethical theory. In discussing these differences the account of Sir Frederick Pollock, who has summed them up so lucidly, will be mainly followed.[1]

The Law deals with Overt Acts.— And first it is commonly pointed out that the law does and can only deal with the outward and manifest part of actions, while morality is concerned with motives and all the inner psychic forces of character that originate action and most intimately characterize it. As Sir Frederick Pollock states the case,[2] "The commandment, 'Thou shalt not steal,' may be, and in all civilized countries is, legal as well as moral; the commandment, 'Thou shalt not covet,' may be of even greater

[1] *First Book of Jurisprudence*, p. 45 *sq.*
[2] *Op. cit.* p. 45.

importance as a moral precept, but it cannot be a legal one." And again, "With rare exceptions an act not otherwise unlawful in itself will not become an offence or legal wrong because it is done from a sinister motive, nor will it be any excuse for an act contrary to the general law, or in violation of any one's rights, to show that the motive from which it proceeded was good." As regards the first quotation it is only necessary to say that covetousness is a matter of benevolence and in fact does not any more directly concern moral justice than it does legal justice; it is a matter of proper feeling and not of the description of proper actions. And as regards both quotations the fact may be recalled that the present chapter is not concerned with the whole of morality, inner and outer, any more than the courts are. The motives with which either just or unjust actions are performed are not at present of any interest. The purpose is to get descriptions as detailed as may be of the actions that properly distribute benefits and injuries, and that are therefore right and not to be interfered with with impunity, and of the actions that improperly distribute both, and that are therefore wrong and subject their agents to liabilities of various kinds. The fact that the courts do not consider motives, or in general the inner aspects of actions, is accordingly no ground of objection to the use of their conclusions in the present connection. So far as has yet appeared, the courts have all along considered the very subject-matter under discussion here.[1]

Other difficulties often urged rest upon the fact that actions morally prescribed and actions legally prescribed do not coincide throughout their whole extent. Some actions legally prescribed are not founded on moral principles, and some actions morally binding are not enforced

[1] This paragraph and those that follow are not criticisms of the author quoted. He is discussing the relation of morality, not the relation of moral justice to the law.

by the courts. The relationship between moral and legal justice is similar, so it is urged, to that between a circle and an ellipse with the same centre and with equal areas; in the main they overlap, but each has ground peculiar to itself. It will be well to consider in order the merely legal and the merely moral actions that this account of the matter suggests.

Merely Legal Rules of Action. — The class of merely legal actions exists, but it is much smaller than is often supposed. Two legal rules often given as examples of this class can be readily disposed of. The law determines the side to which drivers of conveyances on public highways must turn when they meet, it determines the procedure to be observed in courts of justice and the form of instruments submitted as evidence of rights, and it prescribes many other actions similar to each of these. But, it is urged, there is in morality no reason whatever for insisting that drivers should turn to the right rather than to the left, or *vice versa*, any more than there is for a particular from of procedure or instrument, or for the other actions similarly prescribed. The choice is arbitrary and is not founded on any moral principles. These statements are true, and they apply to a large number of minor laws, but they are scarcely to the point. The simple fact is that in many situations, while any one of several different actions would be equally serviceable, the performance of all these actions at different times would be attended with considerable danger or great inconvenience. Safety in some cases, and in others convenience and the saving of valuable time, demand that a settled mode of behaviour should be adopted by all. And this result can be reached only in one way, by giving authority in some quarter to decide what this mode of behaviour shall be. Of course once the choice is authoritatively made, deviation from the rule is moral and unjust, though in many cases no very serious obliquity, as is shown by the light penalties attached in

many cases. In short, the type of prescribed actions under consideration are not merely legal, they are morally binding as well. The difference between them and other moral actions is that they are not derivable from more general moral principles, but are of necessity based on authoritative discretion.[1]

Other prescribed actions often considered merely legal fall into a class very similar to the classes discussed in the last paragraph, but differing from them in importance. Individuals, namely, are in some cases required by the law not merely to follow arbitrary but necessary rules, a matter of slight moment except to supersensitive individualists, but to suffer losses and even to repair damages due to no fault of their own. And at first sight, it, no doubt, seems unjust that men who are without blame should suffer and be punished. But a consideration of the principal cases in point may lead to a different conclusion. The descriptions are taken from the author quoted above. "Thus a man is liable in most civilized countries for the wrongful acts and defaults of his servants in the course of their employment, whatever pains he may have taken in choosing competent servants and giving them proper instructions." This rule exists in every system of law. "Again, both Roman and English law have made owners of buildings responsible, in various degrees, for their safe condition as regards passers-by in the highway, or persons entering them in the course of lawful business; and this without regard to the amount of the owner's personal diligence in the matter. Again, questions often arise between two innocent persons, of whom one or the other must bear the

[1] Of course general moral principles themselves rest on discretion and judgment, but that fact is disguised from us by the complexity of the problem and is seldom felt as a difficulty. The acts above discussed belong to the same class as the acts of obedience morally binding on children, servants, and other subordinates, though constituting a distinct species of the class.

loss occasioned by the wrongful act of some one from whom redress cannot be obtained; as when a man who has obtained goods by fraud from their owner sells them to an unsuspecting third person, and then absconds, leaving nothing behind him."

In fact, in these and similar cases the appearance of injustice arises from a natural misconception. It is forgotten that men are called on to make sacrifices, not merely in punishment for faults, but quite as often in proper recognition and requital of benefits received. Every individual owes the state a large debt for the security it assures him and for other benefits. And while this debt is normally paid, so far as it is paid, by proportionate contributions assessed upon all, as in the case of taxes, there is no injustice in calling on individuals to make other payments towards their debt under circumstances where public policy demands that course. Normally, servants are pecuniarily unable to pay the injured person damages at all commensurate with the injury inflicted, and the inability in the case of the weather and other disintegrating forces that render buildings unsafe is even more apparent. To be sure, the state might adjust such matters by paying damages itself, to the persons injured, but, overlooking the plain inexpediency of such a course, the simpler remedy is to draw on the state's credit funds in the hands of masters and owners, and make the drafts payable to the sufferers, especially as this course reduces suffering of these kinds to a minimum by bringing to bear on owners and masters powerful incentives for the exercise of unusual diligence and care. In the third case of the two innocent persons, the explanation, though specifically different, is the same in kind. The real cause of the damage cannot be effectively reached, and, since one of the two persons must suffer loss, considerations of public policy, aided by the credit of the state, must determine which that shall be. In the words of Sir Frederick Pollock, "Citizens have an

equal chance of benefit as well as burden under special rules of this kind;" and he adds, "Exposure to this kind of liability is part, and not a large part, of the price which the individual has to pay the state for the protection afforded by its power, and the general benefit of its institutions." All things considered, it is safe to say that these rules, like those previously considered, are morally just, as well as legally binding.[1]

This disposes of the most important cases of rules of action held to be merely legal, showing that the rules in question are on the whole just and necessary. At the same time it is not and cannot be maintained that every law and finding of the courts is just. The fallibility of judges, hasty and crude legislation by untrained and incompetent men, rapid change of conditions in industrial and other directions, and other less prominent causes, render it certain that isolated laws and decisions now and again work inconvenience, hardship, and even positive inexcusable injury. But it can be maintained that no well-defined class of laws is unjust in principle, however injudicious may be the working out of the principles into detail in some cases. In each of the main branches of the law there are leading cases, so called, some of them centuries old, that announce principles that have been critically considered and reaffirmed innumerable times. These leading principles, when they appear in substantially the same form in the many jurisdictions of the common and of the civil law, may be accepted as essential elements of the objective conception of justice.

Moral Justice Outside the Law. — It is now necessary to consider the unjust acts that the law does not restrain and the just acts that it does not encourage. The discussion must be discriminating, for the divergence is an important one. If it is true that the law wholly fails to consider important kinds of unjust and just acts, the law is not an

[1] Cf. Ch. II, § 5, Ch. XII, § 2.

adequate basis on which to found a comprehensive idea of justice.

And first some idea must be had of the opportunities enjoyed by both Roman and English judges for recognizing and protecting all kinds of rights appropriate to be enforced by legal means, and of the strong pressure exercised upon them by those who conceived their rights to have been invaded, and by the natural ambition of the judges themselves to supplant the lesser independent tribunals which in early times shared jurisdiction with them. In the space available it will be impossible to mention any but the most salient facts under the heads suggested; for anything like an adequate account readers must be referred to the histories of Roman and English law.[1]

Both in regal and early republican Rome, and in England under the Saxon and Norman kings, justice was administered by a number of independent tribunals. The courts which derived their authority direct from the sovereign power, and which in time developed the civil and the common law, formed merely a part of the judicial system of each country, and undertook to right, not all wrongs called to their attention, but specific kinds of wrong only. But in both countries, as the central power grew stronger, many causes conspired to abolish the lesser tribunals and to leave the sovereign courts, as they may be called, as the sole dispensers of justice. Among these causes the most influential were the legislation of the sovereign power, and especially the open-mindedness and impartiality of the sovereign courts. Even if such a course had been otherwise expedient, the central government was not secure enough of itself in early times to be willing to incur the enmity that the abolition of the lesser tribunals

[1] *E.g.* Muirhead's *Roman Law*, Hunter's *Roman Law*, Ortolan's *Treatise on Roman Law;* and Holmes's *The Common Law*, Kerley's *Equity Jurisprudence*, Pollock and Maitland's *History of English Law.*

would have aroused. But it was naturally anxious to secure for itself full control over the important function of dispensing justice, which brought it into such intimate contact with the people, and as occasion permitted decrees and laws extended the jurisdiction of its courts, or enabled these to extend their own jurisdiction. In either case the sovereign courts undertook to adjudicate disputes that only the lesser independent tribunals had previously considered. By these means the authority of the central courts was extended step by step, until in both countries the time came, in the fifth century of the city in Rome, and in the thirteenth century in England, when the courts which developed the civil and the common law enjoyed full authority to consider and judge any claims of invasions of rights, that they might in their discretion think proper subjects for such treatment.[1]

And if we turn to the sovereign courts themselves, equally powerful and, if possible, more pressing motives appear, impelling them to extend their jurisdiction and render themselves supreme. They were naturally impatient of the rival jurisdiction enjoyed by courts deriving authority from inferior sources, and their sense of dignity was offended in cases of conflict. Again, professional pride played its part. As their authority extended, and litigants came to resort to them by preference when choice was open, because they were better trained, more open-minded, more free from local and class prejudices, less in danger, owing to their high office, of being intimidated by the powerful, and much better able to enforce their judgments, the Roman prætors and their subordinates, and the English king's chancellors and judges, grew increasingly loath to turn litigants away on the plea that the particular dispute did not fall within their cognizance. If

[1] In England the king's interest in attracting litigants from the barons' and other local courts was much stimulated by the fact that the fees collected by his courts constituted a large part of his revenue.

the law as strictly interpreted disallowed the entertainment of a suit, a legal fiction could easily be, and frequently was, invented to circumvent the difficulty. Another source of pressure in the same direction was the reiterated insistence of plaintiffs. One man or a few men complaining of a specific grievance over which there was no jurisdiction, might be turned away with cold comfort, but when the same grievances were urged again and again by successive plaintiffs, with increasing insistence, judges, allowed broad discretion and willing to extend their powers, could not continue to refuse consideration. Means were devised for allowing a hearing to complainant and defendant, and for entering judgment and enforcing it.

Under the pressure of these powerful forces, the courts gradually extended the scope of their operations. But progress was slow, for they started from a rude beginning. The law of contract, the larger part of the civil or private law, had to be evolved in its entirety, for in archaic times it did not exist. Indeed, there was then no need for it. Men were engaged almost exclusively in agricultural and pastoral pursuits, all trade was barter, and it was but seldom that anything of value was parted with in exchange for the mere promise of a *quid pro quo*. And the law of tort, another extensive part of private law, was very rudimentary. For injuries to the person, ranging from death to slight wounding, to property, and to reputation, there was legal redress only in exceptionally violent and outrageous cases. When injured in any of these ways, or through breach of a promise made him, the individual had to trust to his own might or to the aid of his kindred for redress.

The advance from this early judicial impotence and inertia to the power and willingness of civilized courts to enforce genuine and proper contracts, and to redress genuine wrongs, proceeded in two stages and along two different lines. At first, the courts were jealously watched,

and there was careful and technical definition of the few engagements or contracts they had authority to enforce, of the wrongs they could recognize, and of the redress they could grant. During the first period the courts were given but little discretion. Legislation by assemblies and kings prescribed the actions and forms, artificial and unnatural, necessary to found a legal right, the set phrases, technical and stiff, required in asserting injury received and in invoking the aid of the courts, and the evidence, mostly far from cogent, legally competent to establish allegations. The only function of the courts was to consider the few cases that fell under the rules thus prescribed, and to decide them in accordance with the evidence the rules allowed.

The second period is characterized by the confidence and esteem increasingly inspired by the courts, and by the large, soon the practically unlimited, discretion allowed them. What cases should be considered, and, to a large extent, how they should be determined, was not decided grudgingly by other departments, but by the highest officials, in Rome the prætors, and in England the chancellors, of the judicial department itself. For legislation gave the courts discretion to consider and define every right, liability, and injury that the highest court thought a proper object of judicial cognizance and determination. Many minor laws contributed to this result, but in Rome and in England alike it was chiefly due to a few important laws.

In Rome it was the Æbution law, passed probably in the sixth century of the city, that allowed the prætors to modify and supplement the complicated and cumbrous procedure *per legis actionem*, theretofore prevailing, but already proving inadequate to meet the increasing needs of the growing city. By this law the prætors were empowered, as is generally agreed by the authorities — the text of the law has not been found — "(1) to devise a

simpler form of procedure for causes already cognizable *per legis actionem*, (2) to devise forms of action to meet cases not cognizable under the older system, and (3) themselves to formulate the issue and reduce it to writing."[1] In other words, the prætors were authorized to prune the technicalities of procedure that hampered the course of justice and debarred many causes from access to the courts, to extend jurisdiction at their discretion, in order to cover grievances theretofore beyond judicial competence, and to shift from litigants' shoulders to their own the responsibility for properly stating questions at issue, thus sparing the former the peril of missing justice from mere technical fault.

In using this extensive discretion allowed them the prætors received substantial assistance from several quarters. In the first place, they could draw on a goodly working knowledge of many different systems of law, which they had acquired as governors and proconsuls, — or from men who held those offices, — administering, according to Roman policy, the local laws of conquered peoples. Besides at Rome the peregrine prætors adjudicated disputes involving foreigners, who flocked to Rome from all quarters of the known world, but to whom the laws peculiarly Roman did not apply, and in so doing built up the conception of a body of laws universally just and applicable to men of all nations without distinction, the so-called law of nations (*jus gentium*) that was largely influential in simplifying and expanding the Roman law. Again, the Stoic doctrine of a *jus naturale* — of law as defining, not the rights in fact recognized by nations, but the rights of man as such (similar in general to those declared in modern bills of rights, which indeed were inspired, through Grotius, Hobbes, and others, by the Stoic doctrine), was familiar to Roman jurists, and was woven into the Roman law by the prætors, adding much to its

[1] Muirhead, *Roman Law*, § 71.

system and consistency. Finally, eminent counsellors, the *prudentes*, often at once successful practitioners and professors of law, as they would be called to-day, were impartial official advisers to the courts, and their opinions (*responsa*) set before the prætors and other judges, busied with important cases, the wealth of Roman legal experience and theory.

Under the pressure of the motives earlier suggested, and under the guidance of this rich experience and theory, the prætors and other magistrates constantly added to the rights recognized and constantly devised more appropriate remedies for prevalent wrongs. Eventually they framed and set alongside of legislative enactments a supplementary body of judge-made law that came to be known as the *jus honorarium*. As has been suggested, this supplementary body of law grew up very gradually, but it is also important to bear in mind that the cessation of its growth was equally gradual and natural. For the development of the *jus honorarium* was not suddenly stopped by the interposition of any external agency. When the *jus honorarium* attained its maturity it ceased to grow. This can be seen from an examination of the prætors' edicts. It early became customary on their yearly assumption of office for these officers to issue an edict, setting forth the circumstances under which the incumbent would grant relief and the character of relief to be granted. "The next year's prætor was free to adopt the edicts of his predecessor or not; but it was usual for him to do so if they had been beneficial in practice, he adding to them new provisions. . . . As each new prætor entered upon office he announced his jurisdictional programme, . . . by far the greater part of it *tralaticium*, *i.e.* transmitted from his predecessors, and only a few paragraphs, *diminishing in number as time progressed*,[1] representing his own contribution." [2] During the latter decades of the Republic few

[1] Italics not in the original. [2] Muirhead, *op. cit.* § 71.

additions were made by the prætors, for the simple reason that they could find few important rights or remedies not already recognized. And on the eve of the Empire Cicero, in his defence of the poet Roscius, goes so far as to say, that provision had been made for access to the courts under every possible contingency. During the Empire the main outlines of Roman law were not disturbed; it was merely changed in detail, and finally systematized and left as a model for later ages under the orders of Justinian.

Space will not permit even a review of the development of English law. But this is not necessary. It is sufficient to say that, beginning with the reign of Henry II, and under authority of ordinances and laws of Henry III, and especially of Edward I, "the English Justinian," the chancellors enjoyed a discretion similar to that of the Roman prætors; that they were well armed with experience and knowledge to guide their exercise of discretion; and that they amply exercised it, partly by extending the jurisdiction of the kings' courts of law, and partly by evolving, as supplementary thereto, the equity jurisdiction of the Chancery itself. In detail the development of Roman and English law was very different, but in both cases there was ample opportunity for every genuine species of grievance to get a hearing before, and a determination by, well-trained tribunals.

This concludes what can be written here to suggest how comprehensively and in what concrete detail the Roman and English courts have dealt with the problem of justice. Had a fuller treatment been possible, the conclusion would have been the more complete and striking. It now remains to point out in a few words some of the limitations debarring the courts from considering certain grievances. For, though the courts consider and define all the rights and liabilities they appropriately can, it does not follow and is not true that they pass upon all rights and liabilities.

The most important limitations arise from the nature of the means at the disposal of the courts for enforcing justice. There are many varieties of injustice, but against them the courts have only a few weapons, all crudely physical. They can execute, they can imprison and offer physical punishment and hard labor as the only alternatives, they can impose fines and dispossess of property, but other resources they have none. Being the representative of the political sovereign, the courts can employ physical power, the whole available power of the state if necessary. But they are not in a position to bring to bear upon litigants any other influence or constraint. But in many cases it is inexpedient, even dangerous, and ineffectual as well, to attempt to prevent or redress injustice by physical means. And recognizing this the courts have refused to consider many grievances, regarding which there are accordingly no laws to be found. This is especially true in the case of breaches of what are known as duties of imperfect obligation, such as the duties owed to family, country, and friends.[1] For instance, every member of a family, as long as he belongs to it, continuously owes duties of forbearance and aid to the other members. But short of intolerable invasions of privacy, the courts cannot enforce these duties, or at least can enforce only a few, like the plain duties of support owed by parents to children and by husbands to wives. And so it is with patriotic duties. The state can collect taxes, but it cannot force any one to be an intelligently loyal and self-sacrificing citizen, devoting time and energy to the general good. There are instances of religious tribunals, supported by the secular arm, and attempting to define and enforce many duties the secular courts

[1] The term is unfortunate ; the obligations are in no sense imperfect. The trouble is, that aside from being owed to certain persons or quasi-persons, the duties can be but imperfectly defined owing to their utter concreteness.

now refuse to consider. But casuistry and tyranny have always resulted. In short, the prevention and redress of many injustices always have depended, and, as far as can be foreseen, always will depend, on the pressure of public opinion and other forces of suasion. Physical punishment and threats of the same are devices too clumsy to serve the purpose.

But while recognizing that the courts cannot, because of the rude weapons they wield, undertake to redress the more hidden and intimate wrongs, it is important that the admission should not go beyond the facts. In the few instances cited it will be observed that the duties passed over by law belong to classes containing duties the law carefully defines and seeks to enforce. This is true of family duties and patriotic duties, and if not true of the duties of friendship, it is true of the larger class to which they belong, including the duties incident to partnership, agency, and similar relationships that are voluntarily entered into and involve mutual trust, assistance, and a host of other obligations quite as incapable of full specification as are those of friendship. On all such duties the law throws much light, though it cannot of course define them in detail.

But there is one important class of duties that the courts have wholly failed to enforce on individuals,[1] namely the duties of charity, inspired, as was seen in the last chapter, chiefly by the feeling of pity. The unfortunate, those in special need, have no legal right to assistance from any specific individuals, and no individual is under legal duty to relieve this or that person in distress, though individuals may be legally bound to pay taxes, levied wholly or partly for the purpose of aiding the unfortunate. But while legal rights and duties of the kind indicated do not exist, moral rights and duties do exist, and are

[1] In enforcing the "poor laws" the courts have compelled communities to do charity.

fully recognized, and indeed in certain stages of civilization are looked upon as the central core of morality. There seem to be two main considerations that restrain the courts from protecting these rights and enforcing the duties corresponding to them. First, it is impracticable for the courts to decide *who* owes assistance to any particular person in distress, for there is no plain and generally recognized relationship between the needy, as such, and other individuals, as there is between members of a family with mutual rights and duties, and very intimate and complicated considerations must be borne in mind before a decision can be reached with regard to duties of charity. The courts are willing to exercise discretion, but they will not undertake to adjudicate cases that call upon them for so unwisely large an amount of discretion. Secondly, enforced charity is neither creditable to the giver nor welcome or helpful to the receiver. "The gift without the giver is bare." But whatever the reasons, the fact remains that the courts do not deal with duties of charity in so far as they are incumbent upon individuals. This failure is partly responsible for the usual distinction between justice and mercy. We will be better able to determine whether or not there is any other important class of rights and duties neglected by the courts after the principles of justice as recognized by the courts have been passed in review.

Summary and Conclusion. — This long discussion has considered as fully as space permitted several questions that had to be decided before the law as administered by the courts could be accepted as an adequate and trustworthy embodiment of a nation's idea of justice. After some preliminaries, the competence of judges was discussed, and compared with the competence of ethical investigators when unaided by any systematic study of the law, with the result that judges were found to be more favourably situated for reaching broadly based and unbiassed conclu-

sions. It was seen that the restriction of courts of justice to the consideration of overt acts coincides with the restriction of the conception of justice as here defined. On investigation it appeared that many acts often considered merely legal are morally just as well, and while some acts required by the courts were found to be morally indifferent or even immoral, this appeared to be true only of isolated requirements, not of any important class of legal principles. Finally, the consideration of the conditions under which the law grew up, and of the very full opportunity enjoyed by the courts for bringing within their jurisdiction any and all conflict of interest they might consider themselves competent to deal with, as well as of the motives and other forces impelling them to extend their jurisdiction, led to the conclusion that the courts cannot well have failed to consider and define any important rights they were in a position to protect. And, although it appeared that the courts are not competent to enforce all rights, it seemed highly probable that they do enforce some rights under nearly all the main subdivisions, possibly under all except one of the main subdivisions.

We are now prepared to decide definitely what use can be made of the law in attaining an adequate and trustworthy conception of justice. And, without further preliminaries, it may be said at once, that if two precautions are observed, the law offers the best basis on which to build up the conception we are seeking to construct. In the first place, the law must be so used as not to include in the conception attained the merely legal actions it prescribes, and not to exclude from it the moral actions the courts cannot consider and enforce. With these ends in view only the main principles of the law, only the higher classes of rights and duties will be made use of. There would no doubt be difficulty in deciding just how far the law can be followed down the hierarchy of its classification, but fortunately such a decision is not necessary here. Space limi-

tations forbid the discussion of any but the most general principles of the law, and in fact it will not be possible to approach at all near to the danger limit.

In the second place, what is being sought is, not the idea of justice of any one nation, but the idea of justice as it has been worked out conjointly by the most highly civilized nations. Not a provincial or national, but a cosmopolitan conception of justice is to be constructed, a conception that, so far as it goes, may serve as an authoritative moral guide to all nations and peoples. The precaution that this comprehensive aim necessitates is not far to seek. Legal provincialisms are to be avoided, and to that end only such rights and duties as are recognized by all civilized systems of law are to be considered morally just. This necessitates a comparison of the different systems of law, and the exclusive acceptance of the principles recognized by all of them. In fact the Anglo-American common law will be used as a basis, and so much of it accepted as agrees with the civil law as exemplified in the French and German systems. The task is not as difficult as might be supposed, for there is little divergence in the main principles of civilized legal systems. This second precaution and the first are mutually accordant, and will assist each other.

It only remains to provide for charitable and other duties, if any others there be, that the courts wholly neglect. This point will be considered towards the end of the chapter, after the law has thrown all the light it can on the nature of justice.

§ 3. Preliminary Idea of Just Conduct

Before proceeding, on the basis of legal justice, it may be well to state explicitly that the precision and exhaustiveness of statement characteristic of and necessary in legal writings must not be expected in the following pages. The purpose of judges on the bench and, to a slightly lesser

extent, of legal writers is to compel understanding and to render misinterpretation impossible, which purpose accounts for the cumbrousness of their style. They know that what they write will be carefully weighed, every word and omission being narrowly scrutinized by interested parties with a view to twisting it to their advantage wherever that is possible. Besides, they are dealing with relatively concrete cases, judges with absolutely concrete cases, and they must make plain just what the issue in all its richness is, and precisely what the rules are that apply in each case. But ethical writings are not so narrowly and critically examined. The friendly coöperation of the reader can be counted upon, for his purpose is not to misinterpret, rather is it his effort to interpret as accurately as possible the meaning that the writer is striving to express. Without such coöperation, agreement as to scientific generalizations would never be reached in the less exact sciences. For Ethics has to deal largely with generalizations, instead of with universalizations. The field is so large that only statements of a high degree of generality can be considered, and in dealing with so concrete a subject-matter such statements are not universally true, but merely true "for the most part." Now statements that are merely true for the most part can easily be twisted for personal advantage, and for that reason legal writers never make them, preferring to put in all the qualifications that render them absolutely true. But ethical writers do not fear deliberate misinterpretation, and therefore make general statements in order to throw as much light as possible on a difficult and intricate subject.

In the introductory chapter of the *Institutes* of Justinian appear the following words, quoted it is believed from a lost work of Ulpian, one of the greatest of Roman jurists: "*Iuris præcepta sunt hæc: honeste vivere, alterum non lædere, suum cuique tribuere.*" As to the meaning of *honeste vivere*, the first of these precepts of the law, there has been not a

little discussion, for it is not easy to recognize the branch of the law that these words sum up. But, as Sir F. Pollock says, the phrase, though vague enough, "may mean refraining from criminal offences, or possibly general good behaviour in social and family relations." Whether or not Ulpian, if he wrote the words, meant in that phrase to refer to the criminal law, may never be known. But no mistake will be made in taking the criminal law as a basis for one of the main subdivisions of justice. "And what," asks Professor Pollock, "of *alterum non lædere?* Thou shalt do no harm to thy neighbour. Our law of torts, with all its irregularities, has for its main purpose nothing else but the development of this precept."[1] So, then, the law of torts, or private wrongs, will furnish the basis for another main subdivision of our subject. And the meaning of the last phrase is sufficiently plain; *suum cuique tribuere*, to give unto each his due, must refer to the law of contract and property, which will accordingly be the basis of another subdivision of the subject. Use will also be made of other branches of the law, *e.g.* of portions of the political law and of the law of procedure. The principles of distributive justice are to be found chiefly in the private law, the law of torts, contract, property, etc., the principles of what is somewhat unfortunately called retributive justice in the criminal law.

Grouping private and public wrongs together, and detaching certain questions for separate consideration, it may be said that justice lays obligations of three kinds upon men individually: first, abstention from wrongful injury, both to private individuals — here the law of torts is the basis — and to public interests — here the criminal law is the basis; secondly, the conferring of benefits upon those entitled to them at the hands of each — the legal basis being the law of contract, the law of obligations arising from special relations, including the law of property, and

[1] The last two quotations are taken from Pollock's *Law of Torts*, p. 12.

portions of the political law; thirdly, the remedying of injustices of either kind — the basis being subdivisions of the branches of law mentioned and also the law of procedure.

The first group of obligations defines the limits beyond which liberty of action in any one wrongfully injures others; it distinguishes liberty from license. The second, in view of the fact that individuals are constantly receiving benefits from other individuals and from society, determines how and to whom return should be made; men owe debts, and honesty and gratitude require their payment. The third subdivision determines how those who take undue license and those who do not pay their debts shall be dealt with.

§ 4. Unjust Injuries to Individuals

It might at first sight be supposed that any injury to another man is unjust. But it takes but a moment's thought to make it plain, that if every act injurious to any one were forbidden, the restraint on liberty would be paralyzing and intolerable, quite as intolerable as the mutual injuries that would result if every man were allowed to do just what he pleased. And in fact the law has not and morality does not forbid such injuries to others as are unavoidably incident to social life, or such as are promotive of general welfare, but wrongful injuries are forbidden. Of course to distinguish between allowable and wrongful injuries is a very difficult and delicate task, but that precisely is the task of the law and of morality in this their negative or prohibitive aspect. To state the same facts from the positive point of view, men have interests, generally but ineptly called rights, interference with which constitutes injury, and the problem is to discover what interference with these interests is allowable and just, and what interference is wrong and unjust.

The point will be made clearer by recalling the fact that

these interests are those more or less accurately enumerated in the misleading documents called bills or petitions of rights, documents that are misleading because they insist on the "rights" without insisting on, or even so much as mentioning, the limitations to which the so-called rights are subject. The document most familiar in this country declares that man has inalienable rights to life, liberty, and the pursuit of happiness, a statement that, while true, is, as will presently appear, but a half truth, and in so far misleading. For while interference with life, liberty, the pursuit of happiness, or any other right of the same standing is an injury, and often a wrong, yet such interference is sometimes allowable, and may be a positive duty. Bills of rights have served a useful purpose in the past, by overemphasis following upon and necessitated and justified by antecedent neglect. But it is time to understand that there are limitations to these "rights," and what the limitations are.[1]

"*Rights*" *in General and* "*General Exceptions.*" — Subject to general exceptions and other limitations to be discussed presently, it may be said that all civilized systems of law declare it to be an abuse of liberty and a wrong for any individual to attack any other individual in what may be roughly described as his bodily safety, his sense of security, his personal liberty, his enjoyment of his property, his relations to other beings, and his useful knowledge. One of the components of the ultimate end is individual welfare, and the courts have come to see that in pursuit of that end every individual must be protected, so far as possible, in the six directions mentioned. Each of these "rights" may be wholly or partially alienated, and

[1] The liberty to be here distinguished from license is not political or constitutional liberty, *i.e.* the opportunity to vote or otherwise to take effective part in political activity, but civil liberty, *i.e.* the opportunity to go about one's business and in general to manage one's life without undue interference from other individuals or from the state.

will have to be carefully defined and limited later on, but a general idea of what wrongs consist in will be obtained by regarding them as infractions of the rights mentioned.

But there are a number of "general exceptions," as they are termed in the Indian Draft Code, sets of conditions under which injury in or interference with any of the rights mentioned is no wrong. These general exceptions are discussed under that title in Professor Pollock's *Law of Torts*, which is in the main followed here, though deviations and omissions are made necessary by difference in purpose and point of view. The exceptions conveniently fall under six heads.

(1) In defending his interests or those of some other persons — though in the latter case it is very difficult to tell where the line should be drawn — a man may use necessary and reasonable force, and in so doing commits no wrong. "In defence of a man's liberty, person, or property, he may lawfully use any amount of force which is both 'necessary' — *i.e.* not more than enough to attain its object — and 'reasonable' or 'proportionate' — *i.e.* which does not inflict upon the wrong-doer mischief out of proportion to the injury or mischief which the force used is intended to prevent; and no man may use in defending his rights an amount of force which is either unnecessary or unreasonable." Of course, only defence is allowed; attack is not contemplated under this head. But it is more difficult to decide what degree and kind of injurious action is allowable in defence from attacks that fall short of offering physical violence, *e.g.* insulting remarks, but doubtless so much defence as is necessary and proportionate, as defined above, is allowable. Again, the concensus of legal systems is not clear in the matter of justifiable defence of others. Defence of members of one's family, especially women and children, and defence of the property of another, under certain conditions, as when a servant defends property of his master committed to his charge

against forceful attack, may be as energetic as self-defence, if anything more energetic. But beyond this point it does not seem possible to discover any sharp rule. What Professor Dicey says, in the following quotation, of the intrinsic difficulty of defining legitimate self-defence applies, *mutatis mutandis*, to the difficulty of defining legitimate defence of others: "The rule which fixes the limit to the right of self-help must, from the nature of things, be a compromise between the necessity, on the one hand, of allowing every citizen to maintain his rights against wrong-doers, and the necessity, on the other hand, of suppressing private warfare. Discourage self-help, and loyal subjects become the slaves of ruffians. Overstimulate self-assertion, and for the arbitrament of the courts you substitute the decision of the sword or the revolver."[1]

(2) Injuries inflicted by public officers in the exercise of their official functions *and of their discretionary powers* are not legal wrongs. For instance, the soldier who under orders kills the enemies of his country, the judge or legislator who in his official utterances blasts a reputation, the quarantine officer who detains an infected ship, and the policeman who wounds an escaping burglar, commit no wrongs, provided they are acting within their discretionary powers. As the last clause indicates, certain questions are left to the discretion of public officials, and whatever they decide, and whatever injuries result from their discretionary actions, no responsibility is imposed upon them; the law makes them the final judges. But public officials are of course bound to act within the law, and they are liable for any injuries that result from their illegal acts.

Again, private citizens may be called upon to act in official capacities, *e.g.* in taking part in the arrest of an escaping burglar, murderer, or felon, or in quasi-official

[1] *Law of the Constitution*, Appendix, Note IV. The quotation before this is from the same source.

capacities, *e.g.* as parents, teachers, or custodians of the insane, and then when acting within their discretionary powers they can do no legal wrong.

It would be interesting and instructive to discuss the conditions under which discretionary powers are given, but there is no space for such a discussion here. It should be pointed out, however, that injuries due to official and quasi-official action within legal discretion may be wrong from the moral point of view. When it is thought more expedient for the officials concerned than for judges to pass upon injurious actions, the former are given sole discretion by the law. But of course that discretion may be abused, and then moral wrong is committed. Injuries by officials and quasi-officials are not legal wrongs when they fall within the discretion allowed by the law. But when it comes to defining the moral use of discretion, many difficulties arise. Of course, as was seen in Chapter III, such discretion should be used conscientiously and wisely, or according to the best insight, and the discussion of objective morality throws light on the nature of the wise use of discretion in each case, but full specification of its nature is impossible. The courts cannot do so, and ethical knowledge cannot do much to help the courts. Here rules fail us, and insight alone remains. The example of the wise official must be relied on.

(3) "Leave" and "license" on the part of an injured party transforms an injury that would otherwise have been a wrong into an innocent injury. Any one who engages in a game of football or in a polo match is debarred from holding that he has been wronged by any fellow-participant who injures him in the regular course of the game. The workman who agrees to take part in the manufacture of dynamite or some other high explosive can claim no damages from his employer if injury comes to him through no negligence of the latter. In general, when a man consents to or accepts the risks of any

dangerous activity or situation, no wrong is done him if the risk eventuates in injury to him. In such cases the individual brings the injury on himself, or does not avoid the danger, knowing it to be such, and he must abide the consequences, without seeking to shift the responsibility on to other shoulders. The rule is difficult of application, no doubt, but the principle is plain and evidently just.

(4) Inevitable accident is recognized as one of the general exceptions, but it has, in fact, been discussed in Chapter II, where the extent of each man's responsibility was being considered, and needs no further consideration here. Where no man is responsible, in any of the senses of the term formerly explained, for an injury sustained, the injury is said to be due to inevitable accident, and no wrong has then been done. The earlier account of responsibility was based on rules of law, though it went further than the law in considering the conditions under which blame should be imputed, and the conditions under which it should not be imputed; the latter question, being one of motives, is not considered by the courts.

(5) Injury incident to the prudent and judicious exercise of a common right is no wrong. A, by offering better goods at the same prices or the same goods at lower prices, or by otherwise giving greater satisfaction to customers, may drive B out of business, and be the cause of B's ruin and of his family's misery. But A has merely exercised a common right, and in so doing has committed no wrong. And similarly, no wrong is committed by a railroad company, that secures a right of way running near the residence of X, who is a nervous invalid, and by the noise of its traffic so aggravates X's malady as to hasten his death. To be sure, it is extremely difficult to define with precision the meaning of "prudent and judicious exercise of common rights," and especially difficult to define the difference between legitimate and illegitimate business competition. For instance, is it a legitimate exercise of a common right

for A temporarily to sell at a loss in order to drive B out of business, or in order to force B to make terms satisfactory to A? This, which involves the trust question, and similar problems, are almost daily engaging the attention of courts and legislatures at the present time. On these questions there are many opinions, many violent opinions, but as yet there is no scientific answer. Such an answer men have not yet worked out.

(6) Finally, injuries due to works of necessity such as the pulling down of burning houses to save other houses and their contents, or the sacrifice of ships' cargoes or parts thereof to save the ships and the lives on them, are not wrongs. Exceptions resting on this ground offer for the most part little difficulty.

Wrongs. — No exhaustive classification of wrongs to individuals can be expected here, nor will it be possible to discuss any of the classes into which wrongs are divided at all fully. All that will be attempted will be to give some idea of the different wrongs recognized in all civilized legal systems, and, when necessary, some idea of the reasons for considering the actions in question wrongs. Under the exceptional conditions just described, the wrongs now to be considered, of course, cease to be such.[1]

(1) Physical violence to any individual is, of course, a wrong, and is recognized as such in all systems. And this is true not only of violence with more serious consequences, *e.g.* death or grave bodily injury, but of any interference with the person. Every man's body is his very own, and it is his right that no one should, without good cause, in any way interfere with it. At least, this is true of interference with another's person with intent to injure or coerce. Subject to the limitations previously discussed, no man has the right to *undertake* physical harm or coercion

[1] In the main I follow Pollock, *op. cit.*, Sourdat, *Traité général de la Responsabilité*, and the *Bürgerliches Gesetzbuch*. I am indebted for many suggestions to Professor Sidgwick's *Ele. of Politics*, especially Chs. IV and V.

of his fellow-man, and such an undertaking is in itself a wrong. Even the undertaking to annoy or inflict discomfort is a wrong, what, in English law, is known as a nuisance, nuisances including injuries to health, and such annoyances as stenches, obstructions to view or light, and similar interferences with the free use of the senses. But, on the other hand, in case the violence is unintentional, it must be appreciably injurious — nuisances are sometimes sufficiently harmful to meet that condition — in order that it should be a wrong. Intentional physical injury is always a wrong, unintentional injury is a wrong only if appreciable harm is done.

(2) Mental injuries are wrongs according to the civil law,[1] though I have been unable to discover how this rule is applied by the courts. The common law[2] recognizes no such general principle, but does recognize some wrongs whose essence is mental injury. Indecency and blasphemy, though counted among private wrongs, are probably prohibited rather, as Professor Sidgwick suggests, because of their attacks on the family and on religion, than because of their offence to individuals. But the common law also recognizes as a wrong any attack on a man's legitimate sense of security, *i.e.* putting a man in reasonable fear of physical violence or bodily harm. Even the pointing of a loaded firearm at a man from a point within its range, or of anything that looks like a firearm (Pollock), may be an assault, and therefore a wrong. For, "Every person has a right to live in society without being put in fear of personal harm, and he has an action for the invasion of this right even though not otherwise injured."[3] One of the most marked differences between civilized and uncivilized societies is the absence of such fear in the former.

[1] Sourdat, *op. cit.*, § 33

[2] Including equity; the distinction between law and equity is not drawn here.

[3] *Cooley on Torts*, p. 46.

Of course a man is put in reasonable fear of bodily harm only if he reasonably believes that some one intends to and can harm him; intent is of the essence of this wrong.

As regards "mental annoyance, without demonstrable malicious intent . . . reflection will at once show," as Professor Sidgwick says, "that we cannot hope to prevent this with anything like completeness. B may be offended by the colour of A's dress, or the cut of his beard, his movements in public, and the expression of opinions and sentiments; but it is obvious that the attempt to shield B completely from annoyance thus caused would involve tenfold more vexatious interference with A."

It would appear that the civil law approximates nearer to moral truth in declaring mental injuries to be wrongs, while the common law is more practical. The courts can, from the nature of the case, do little that is effective in preventing mental injury to individuals; even public conscience cannot go much further, and private conscience must be chiefly depended upon. But while mental injury is extremely difficult to prevent, and besides is largely unavoidable, because incident to life in society, it is plain that the just man would not wantonly or negligently inflict mental injury or annoyance, any more than he would physical injury or annoyance.

(3) The "right" to liberty is so extensive and on the whole so amply protected in modern civilized communities, that it has to be negatively defined, by specification of the exceptional conditions under which restrictions are imposed upon it. Legally defined, any man is at liberty to do anything whatever that he pleases, except what is prohibited by law. Article 7 of the Belgian Constitution substantially provides, that individual liberty is guaranteed, and that no man shall be sued or arrested, except in cases provided by law, and in the form the law prescribes. And this provision is in full agreement with the rules of all civilized law.

Of course, it is only when in presence of a full account of just or rather of unjust conduct, that the just limitations upon individual freedom can be fully understood. But in general we already know that no man is at liberty to inflict either private or public wrongs, or to withhold from any man the services he owes him, or to treat the unjust in any way that is not just. And we also know, in accordance with the last paragraph, that to curtail any man's liberty *in any way other than* those suggested is to inflict on him a wrong, for he has a right to do what he pleases, provided he observes the legal and moral restrictions suggested. But in addition to this general knowledge, we have some special knowledge, suggested by the law of torts, of the special wrongs that are reckoned under the head of unjust interference with individual liberty. And first, subject to the exceptions discussed, actual physical interference is a wrong. To bind or otherwise confine a man's limbs or to imprison him is an evident wrong. And imprisonment does not merely mean putting in a public prison, but any interference with freedom of motion and locomotion, as by locking in a room, for however short a period, or by standing over a man with a cocked revolver with apparent intent to fire if he attempts to escape.

Again, mental coercion or intimidation is a wrong in many cases, though just what these cases are it is extremely difficult to specify. The following account by Professor Sidgwick is an unusually good interpretation of the spirit of the law: "There is no doubt that to cause alarm by doing or threatening wrongful acts, or to endeavour by any kind of threats to induce a man to do wrongful acts or abstain from fulfilling definite duties, are wrongful interferences, which call for legal repression. But when A, by doing something in itself legitimate but damaging or annoying to B, induces B to act in a manner opposed to B's interests or inclinations, but not involving a breach of legal [or moral] duty, it is a more difficult question whether this

kind of intimidation can in any case be regarded as a legal wrong from the individualistic point of view [*i.e.* the point of view of private interests]. We can hardly lay down that an intention to *coerce* renders an act wrong that would otherwise be legitimate, no less than an intention to injure. For there are many cases in which a coercive intent is also plainly beneficent, either in the interest of the person coerced or of the community: as when a father notifies to a son that he will lose a legacy if he runs into debt, or when persons are prevented or reclaimed from vice by fear of exclusion from social relations. It would be paradoxical to regard such warnings and exclusions as wrongs, merely because they are intended to be coercive. . . . At the same time, whenever the direct or main intent of any action is to induce a man by fear or damage to do what, apart from such inducement, he would consider to be opposed to his interest, the action seems to be at least of doubtful legitimacy from an individualistic point of view; and cases similar to those above mentioned may easily be found which would be generally disapproved; *e.g.* if a father were to warn a son that he would lose a legacy if he did not join the Church of Rome, or if an employer were to give notice that he would engage no workmen who declined to take a pledge of abstinence from tobacco. . . . On the whole, we may say that conduct of this kind lies on the ambiguous margin between what an individualistic code should allow and what it should prevent. . . . A particular case that is free from difficulty is where the act threatened is one that *either* ought not to be done at all, *or* ought to be done with a view to the public benefit; — such as an accusation of crime. The wrongfulness of threatening an act of this kind with a view to private gain, to be obtained by inducing persons whom it might harm to purchasing the threatener's silence, is easily recognized and defined. Another case that especially invites the legislator's attention, as especially menacing to the freedom of individ-

uals, is where a number of persons combine to intimidate by threatening acts which, though not illegal apart from their coercive purpose, are demonstrably threatened and carried out for that purpose."[1] It may be added that the wrongfulness of putting a man in reasonable fear of personal violence is partly due to the normal interference of such action with individual liberty, and partly also to the immediate mental injury to which it gives rise. When threats are directed towards persons in whom the person to be coerced is warmly interested, the rule is the same, though in that case, when there is a wrong, a double wrong is inflicted.

(4) The law of property is too intricate to be discussed here, except in outline. That law defines the different kinds of "property" individuals have in material objects under different conditions, and any interference with the "property" a man has in any object is a wrong to him.

In other words, the moral question really is, What property is it right that men should have in various objects under specified conditions, what use of the objects have men a right to make, and to be protected in? This raises difficult questions, upon which the law and its evolution throw not a little light, but the subject is too involved in technicalities to be profitable for discussion here.

All that need be said here is, that A commits an injustice if he trespasses on B's real property, or if he interferes with his personal property in any of the five following ways: (*a*) by injuriously affecting it, as by killing or wounding an animal, burning goods, etc.; (*b*) by temporarily interfering with the use or enjoyment of the thing, without injuring it or permanently interfering with the owner's enjoyment of it, as by taking another's horse without his consent, and using him for a time and returning him; (*c*) by permanently depriving the owner of the thing, as by taking property and keeping it away from the owner; (*d*)

[1] *Op. cit.* pp. 59, 60.

by unlawfully continuing a possession once lawful, as by the wrongful detention of freight, *e.g.* after tender of full payment; (*e*) by surrender of property lawfully in possession to one without authority or right to receive it.[1] This list will serve to suggest some of the wrongs against property.

(5) It is often a wrong to inflict injury or annoyance by interfering with a man's relations to other persons, though here again there is much difficulty in distinguishing between wrongful and allowable injury. It is of course a wrong to induce C to refuse to do his duty to B, whether that duty is a family duty or a duty based on some other relationship between B and C. To induce another to do a wrong, is to do a wrong one's self; that is a well-recognized general principle of justice. But when C is induced to do something which is not a wrong, as coming from him, but is annoying or injurious to B, the case is much more difficult. Still, when A's direct or main intent is to induce C to annoy or injure B, there is at least a presumption that A has wronged B on analogy with the case previously discussed. And possibly there are other cases of wrongs through the interference with the social relations of individuals, but they do not lend themselves to definite specification, with the exception of injuries to reputation, which are included among wrongs in all civilized systems of law.

The difficulty in this case is to adjust to each other the "rights" to reputation, on the one hand, and to free speech, on the other. For, while attacks on an individual's reputation probably cause him suffering, and injure him by hampering his social activities, restrictions on free speech incommode and hamper those against whom they are enforced, and besides deprive society of the

[1] I owe this classification of wrongs against personal property to my colleague, Judge John C. Townes, though I have made some alterations for which he is not responsible.

advantage of being informed of the defects of its members. But with some care in following the practice of the courts, some helpful rules can be set down.

In the first place, to publish, *i.e.* to make known or circulate, "any untrue statement about another which is calculated to injure his interests, character, or reputation,"[1] is to do him a wrong.[2] Moreover, *honest* belief in the truth of the injurious statement does not prevent it from being a wrong. Even a *reasonable* belief that it is true does not relieve of responsibility. "Persons must often pay heavy damages for giving currency to statements which were not meant to be falsehoods, and which were reasonably believed to be true."[3] A man's reputation is of the greatest value to him, and any one who injures it by false statements is responsible for reparation.

But while every false statement injurious to any individual is a wrong to him, it is not easy to say whether the truth of an injurious statement always prevents it from being a wrong to the individual about whom it is made. The law only gives individuals the right to so much reputation as the true facts with regard to them insure; in other words, the man who has been injured by a true statement has no legal remedy, and no legal wrong has been done him. But the criminal law imposes penalties

[1] Dicey, *Law of the Constitution*, p. 231.

[2] To be sure, official utterances by executive, legislative, and judicial officers, unperjured statements by sworn witnesses, and confidential communications, *e.g.* advice from parents to children, warnings from counsellors to clients, and from guardians to wards, are never legal wrongs, however injurious to the reputation of individuals. But these exemptions are plainly made on the ground of expediency rather than of justice. Plainly false statements whose main and direct intent is to injure, are wrongs to individuals injured by them, and in morals practically the same rules apply in these as in other cases, except in so far as there is sometimes an obligation to make some statement in these cases, *i.e.* in so far as silence is sometimes not permissible, and therefore false statements are not always avoidable.

[3] Dicey, *op. cit.* p. 232.

for the publication even of true injurious statements, if the public has no interest in knowing the facts stated. Possibly when injurious but entirely useless statements about men are true, they are so much more prominently public than private wrongs that they should be classed under the former head only. But when such statements not only serve no useful public purpose, but in addition are made with malicious intent to injure the individual about whom they are made, it would seem that they are wrongs to him. Would it not be a wrong to a useful, settled, and respected clergyman to publish, with malicious intent, an account of one of his youthful escapades?

So far statements of fact have been under consideration. As regards statements of opinion, the rule is not difficult to state, difficult as it is to apply. In the words of Professor Dicey: "Every one has a right to publish fair and candid criticism. But 'a critic must confine himself to criticism, and not make it the veil for personal censure, nor allow himself to run into reckless and unfair attacks merely from the love of exercising his power of denunciation.'"[1]

(6) "A somewhat similar problem is presented in the case of injury done to a man by false statements made not *about* him but *to* him. If statements of this kind can be shown to have been made with intent to mislead, it seems clear that they — as well as other deceptive acts — should be repressed by making the deceiver liable for any serious damage caused by his deception. But if there is no demonstrable intention to deceive, the question is less easy; since it would too seriously hamper the freedom of human intercourse if a man were held legally responsible for all the harm done by statements made to other men without an exact regard to truth. If, however, A makes statements to B with the deliberate design of inducing

[1] *Op. cit.* p. 232. The inner quotation is from Odgers, *Libel and Slander*, p. 38.

him to act in a certain way for the promotion of A's interests, it is specially incumbent on him — and not too much to require — that he should resist the temptation to make statements which he does not know to be true, in the hope that they may turn out to be so; hence, in this case, not only consciously false but grossly reckless statements, which actually cause material damage, may fairly be regarded as wrongs needing reparation."[1]

As a statement of proper legal responsibility for damaging false statements to individuals, the above would be very difficult to improve on in an equal space. From the point of view of objective morality, it need only be added that a wrong is done a man when injury is the "immediate" and "direct" effect of a statement which wise men would know to be false, and not merely of statements the speaker knew to be false.

Reparation. — We now have some idea of what wrongs or injustices are, and the question arises as to what is required of him who has wronged his fellow-man. The question is the more important inasmuch as men not infrequently wrong one another, and will continue to do so as long as they remain imperfect. The answer of the courts is that wrongs give birth to secondary rights and duties: rights on the part of the wronged to reparation, and duties on the part of the wrong-doers to make reparation to them. And reparation, so far as it can be enforced by the courts, consists in the payment of such money damages in each case as will as nearly as possible put the injured party in the position he would have occupied had no wrong been done him. But the restriction to money damages is clearly a legal restriction, made necessary by the limitation on the power of the courts. The moral duty, when one has wronged any man, is to put him, so far as possible, and *by the best means available*, into the position he would have occupied had no wrong been done

[1] Sidgwick, *op. cit.* p. 58–59.

him. The tragedy of wrong-doing consists in the fact that it is seldom if ever possible to make adequate reparation.

§ 5. Public Wrongs

Public wrongs, including the better known class of crimes, are more familiar than private wrongs, and will not call for extended treatment. Wharton[1] has a convenient classification of public wrongs into offences against the person, against property, against society, and against the government. And in addition to being convenient, this classification is philosophical, for the body politic may in fact be wronged by attack either on its individual members or on property rights, or on the state and its subdivisions, or on the government which is the representative of the state. Indeed, it would be a true if vague account of the subject to say, that any one who inflicts injuries on or impairs the security of persons, property, society, or government is guilty of public wrong. But it is possible to give somewhat fuller ideas of wrongs of these four kinds.

Offences against the person and against property are practically the same as the private wrongs already discussed, and need not be further considered here. The identity goes so far that, with a few exceptions of little present concern, the line between just and unjust injuries is the same in the case of public and of private wrongs. In short, unjust injuries to the person and to property are wrongs at once to the injured party and to the public.[2]

Offences against society may roughly be divided into deceitful injuries, *e.g.* perjury, which interferes with the course of justice, and breaches of trust; offences against

[1] *American Criminal Law.* The author recognizes a fifth class, offences on the high seas, dealt with by admiralty courts, but for our purposes these crimes may be classed under one or another of the four heads mentioned in the text.

[2] Of course there are many technical differences between crimes and torts, but every wrong to an individual or to his property is a wrong to the public.

public order and comfort, such as riot, criminal libel, public nuisance; offences against the family, *e.g.* bigamy, adultery, seduction; and offences against governmental enterprises for the social good, like the post-office or the coast survey.

Offences against the government include, among others, treason, extortion and misconduct in office, and bribery. Of course some offences falling under this head are subject to the right of revolution, though the courts cannot properly recognize the fact, except very indirectly.

This completes what can be said with regard to the first great subdivision of justice. Bearing in mind what wrongs consist in, one characteristic of the just man would be his refusal to do wrong, either to a private individual or to the public.

§ 6. Duties arising from Agreements and Promises

Both morality and the law have been much slower and more cautious in enforcing duties of benefaction than in prohibiting the infliction of injuries. Very noticeable in all early moral codes is the large preponderance of "thou shalt not." And similarly, the law of torts and the criminal law appear some time before the law of contract and of duties arising out of relations between individuals; indeed, the last-named subdivision of law has not been systematized even yet. Probably it is in part because of the great reliance in the matter of benefaction on the natural feelings and inclinations discussed in the last chapter, and in part because the value of benefactions depends so largely on the spirit in which they are made, that the law and morality have been so slow to define and enforce any but the most rudimentary of such duties. But whatever the reasons, the fact remains, and, joined to the difficulty of the subject, it places many obstacles in the way of a systematic and adequate account of the duties of benefaction, especially of those that rest on personal relations.

The latter duties, however, will be reserved for treatment in the next section, the present section being concerned with duties arising from agreements and promises.

Agreement as the Basis of Duties of Benefaction. — The term "agreement" is used in place of the legal term "contract" for the same reason that private wrong was used in place of tort. For some agreements which are not contracts give rise to duties, and contracts give rise to duties not recognized by law. But it is the law of contract that enables us to discover duties of both kinds. For the sake of convenience it may be said here, that an agreement is made when a service is voluntarily performed or promised by one party, because of some inducement given by another party, both parties having the same understanding of the inducement and its purpose. In the case of a mere promise there is no such *quid pro quo.*

All students of society recognize the fundamental importance of contracts and other agreements. Division of labour and specialization are essential to even a rudimentary prosperity, and must be carried very far if welfare is to become at all marked. But division of labour and specialization effectively promote welfare only if there is free mutual exchange of products and services, and such exchange cannot take place except by means of contracts and agreements that are respected by the parties concerned and upheld by the corporate power of society. It is only by means of agreements, some tacit, but many explicit, that the individual members of society can reach beyond their isolated individuality, and organize themselves into a more comprehensive social unity. A society in which agreements ceased to be made, or, if made, ceased to be held sacred, would soon disintegrate, and become as a heap of sand.

And of course the peculiar value of agreements arises from the fact that the agreeing individuals voluntarily impose regulations upon themselves; as the French civil

code says, "Legally formed agreements hold the place of law for those who have made them." Men can render services and transfer valuable possessions, and it rests with each to secure something of equal value in return for what he has given. When two parties have reached an understanding, and have consented thereto, to ask each to fulfil his part of the engagement is merely to ask him to fulfil the obligations he has laid upon himself.

The Characteristics of Genuine Agreements. — Indeed, a full half of the rules of contract are definatory rather than regulative. Their main purpose is to make as clear as possible what an agreement is, in order that the courts may insist on the proper performance of agreements, and may not enforce unreal and merely apparent agreements. The requirements of genuine agreements may be briefly discussed under four heads: (1) the capacity of the parties, (2) mutual understanding and consent, (3) implied consent, and (4) real consent.

(1) While incompetent persons may commit torts, personal capacity is essential for the formation of contracts, for the reason that in their contracts and agreements men impose obligations on themselves, and, of course, men without will or with wills too seriously impaired can impose nothing either on themselves, or on any one else.

The problem of personal capacity has already been discussed in Chapter II from what may be called the subjective point of view, and that discussion need not be repeated here. The law, however, looks at the problem from the objective point of view; which it is able to do because certain rather well-defined classes of persons are, for practical purposes, either because of limitations on their powers, or because of the influences surrounding them, always disabled from exercising their volition freely. Among the classes of persons in question are infants (those who have not come of age), married women (partially now, in some jurisdictions, entirely at common law), the men-

tally unsound (including the intoxicated) during their insanity, and convicted criminals. The principle of the law is, that contractual obligations cannot as a rule (proof of competence is in some cases allowed) be enforced against persons belonging to these classes, though certain contracts in their favour can, if properly formed, be enforced at their instance. In effect, then, these incompetents cannot impose obligations upon themselves, but, of course, the other parties to agreements with them are not prevented thereby from imposing obligations on themselves. It is for convenience that the law points out these classes of persons who are normally without capacity freely to contract. The important point is, that men who are not able freely to give or withhold consent, in the senses explained in Chapter II, cannot bind themselves by agreements.

(2) In order to an agreement there must also be a proposal, an acceptance, and an identical or mutual understanding, "the meeting of minds in one and the same intention." Obviously, if B accepts when A has made no proposal, or if A makes a proposal and B does not accept it, there is no agreement. But there must be no misunderstanding of what is proposed and accepted. Where A offers to do X if B will do Y, and B accepts, understanding that A will do W if he (B) will do Z, there is no agreement, for the two minds have not met. Of course the misunderstanding or mistake must be in a vital or material point, otherwise it has no effect, or else an equitable accommodation may be effected without defeating the contract. Not a little difficulty is sometimes experienced in determining whether or not there has been a material misunderstanding.

(3) In some cases consent is expressed in words, but in many it is implied from actions. Of course the parties cannot divine each other's consent wholly without the aid of physical clews. Mutual consent is most clearly expressed in words, as when A says to B, "I will sell you

my horse here for fifty dollars," and B answers, "I will buy him at that price." But conduct will serve as well as words. A moving street-car is an offer to those within hail to carry them over certain lines for the customary price; and the act of getting on to the car is an acceptance of the offer, and a promise to fulfil its conditions. Again, A advertises a reward for his wife's lost bracelet, and B, who brings it to him, is entitled to the reward promised. And in general, if A so conducts himself towards B that a man in B's place who was reasonable, and reasonably competent in the matter in hand, would understand A to make an offer, and if B thereupon so conducts himself towards A that a reasonable and reasonably competent man in A's place would understand that B accepts the offer, then a binding agreement is made between A and B, provided other essential conditions are fulfilled.

But not only express agreements are binding; some tacit agreements are recognized by law, and many more are morally binding. Conduct which as a matter of custom is naturally and normally followed by benefactions to others, provided they have in turn responded appropriately, imposes the duty of conferring the expected benefit, provided the response is made. In proportion as the custom is well established, and as it is reasonable, the duty becomes stronger; and, at the other extreme, a custom that is much disregarded, or that is seriously disapproved by most judicious persons, does not give rise to any duty. In Europe failure to give the customary fee to attentive servants, in restaurants and elsewhere, is nearly on a par with failure to pay for a meal, for it is in that form that these servants receive their wages. But where the custom is barely beginning and little observed, the questionable wisdom of the practice may make disregard of it a duty. This simple example may serve to suggest how more serious situations should be regarded. It is interesting to find this principle accepted by the law, for it is of great

importance in social life. No doubt it lacks precision, as from the nature of the case is inevitable, and, besides, it is often difficult to apply. But without it forecast of the conduct of others would be all but impossible, and mutual distrust — at best something worse than the state of mind of a man beginning business in a foreign country, and totally ignorant of its commercial customs — would prevail throughout the community. Besides, one party has accepted benefits, conferred upon him with the natural and normal expectation that he would make due return, and it is only just, under the circumstances indicated, that he should make the return expected.

(4) But although the parties to a pretended agreement may have capacity, and may satisfactorily express mutual consent, the consent is not really genuine in certain cases, where it is induced (*a*) by coercion or (*b*) by misrepresentation. And the consent is not genuine because, in the first case, it is not free, and in the second case it is predicated upon facts represented as being other than they are. But it is not altogether easy to determine what form of coercion and what forms of misrepresentation invalidate the genuineness, and therefore the obligation of agreements.

(*a*) Of course coercion does not invalidate an agreement, unless the latter either would not have been made at all, or would not have contained the provisions it did, had it not been for the coercion. With that limitation, actual or threatened violence by one to the other contracting party, or to his wife, parent, child, or some other person whose injury would affect him similarly, plainly invalidates the agreement, at the option of the party whose consent is thus enforced. Nor is there any doubt but that any violation, or threatened violation of one party's *rights* by the other, would have the same effect. The party violating the rights would be guilty of wrong-doing, and it should not be, and legally is not made to his advantage so to act. But many cases of coercion are not as plain as

these, and two discussed by Professor Sidgwick will serve to suggest more doubtful cases. In the first place, he asks, "whether the law should interfere to prevent a contract in which A gains by the distress of B, even though A is in no way responsible for the distress, nor legally bound to relieve it." The author implies that some agreements of the kind should not be enforced by the courts, and while the question before him is one of legal policy, *i.e.* as to whether or not such contracts should be made invalid at law, yet his answer is in harmony with the trend of recent legislation and moral insight. For it seems plain that if B is not merely at a disadvantage, but is in actual distress, it is not just for A to take advantage of him by imposing hard conditions, or to enforce the agreement once it has been obtained. And in the second place, "Suppose," he says, "A induces B to enter into an agreement by threatening some act or omission which is not illegal or in itself immoral, but which will as a matter of fact be seriously annoying to B, while it is not conducive to A's interests otherwise than by enabling him to obtain B's consent to the agreement, and certainly would not have taken place except for A's desire to obtain it." Here again the author is concerned with the legal question, and is unable to find an answer to it. And the moral question is equally difficult. To be sure, A probably cannot be justified in coercing B as described, but it is not so certain that B is absolved from his obligation.

(*b*) In this case, again, the validity of the agreement is affected by misrepresentation only when, were it not for the misrepresentation, the agreement would not have been made, or would have contained provisions more advantageous to the party misled. When the misrepresentation is "a false representation of fact by one party, made with a knowledge of its falsehood, or recklessly, without belief in its truth, with the intention that it should be acted on by the other party," and when the other party is thereby

induced to enter into the agreement, the validity of the latter is impaired at law and in morality. For it is a principle of the law and of morality that every intentional and injurious misrepresentation is a wrong, and by neither is such wrong-doing made advantageous, nor should it be. Again, where one party *innocently* misinforms the other, if the misrepresentation is in a material point (consider the first sentence of the paragraph), the latter is in law, should be, and by a just man would be given the option of release from his engagement. So much for misrepresentation by innocent or deceitful *act* of one of the parties.

As regards *failure* to disclose facts affecting the subject-matter of the agreement, the general legal and moral rule is *caveat emptor*. But there are some cases where the buyer, *i.e.* the party who acquires the subject-matter of the exchange, is given right to information regarding it that is not only truthful, but as complete in material respects as the seller can well make it. This right exists (*a*) where the buyer is at a great and insuperable disadvantage as to informing himself of the value of the object to be bought, and (*b*) where the relationship of the parties, *e.g.* attorney and client, ex-guardian and ex-ward, is such that the buyer has a right to assume that the seller is advising him for his, the buyer's, own good.[1]

Summing up, if the parties have not capacity, or if the consent, expressed or implied, is not genuine, no agreement has been formed, provided that an incapable party can in some cases hold the other party to the agreement, if he, the former, desires to do so. And in the cases of coercion and misrepresentation discussed, the coerced or misled party can hold the other party to the agreement or not, as he chooses. In short, lack of capacity, coercion and misrepresentation render agreements voidable, absence of mutual consent renders them void. If there is capac-

[1] Cf. Sidgwick, *op. cit.* pp. 84–85.

ity, mutual consent, and real consent, agreements impose obligations that we must now go on to consider.

The Obligations imposed by Genuine Agreements. — Assuming that a genuine agreement has been made, what obligations does it impose? The natural answer would seem to be that it imposes on each party the obligation to do what he undertook to do when he consented to the agreement. But the right answer is not so simple. For the obligation varies, (1) with the legality and morality of the object of the agreement, (2) with the possibility of performance, and (3) with the burden performance puts upon each party. Let us consider these points in turn.

(1) It is a general principle of law that those agreements are invalidated, more or less in different cases, which have an illegal object, *i.e.* which are either contrary to positive law, or contrary to decency and morals, or contrary to public policy. Now as to agreements contrary to positive law, it is evident that the courts should not enforce them, either on the party who undertakes to violate law, or on the party who undertakes to serve the other party in return for the latter's violation of law. And as regards agreements contrary to decency, morals, or public policy, it is evident that they should not be upheld by the whole power of the state, but that at best they should be left to the private conscience of those who enter into them.

But the moral question is very difficult, so difficult that it cannot be answered in general terms; and besides so casuistical that it is unprofitable to do more than barely touch on it here. At one extreme, there are agreements of perfect moral validity to violate immoral laws. At the other extreme, agreements which have in view the commission of grave public or private wrongs, or the neglect of plain duties, certainly should not be fulfilled, though it is by no means so sure that the party who retires from such agreements is absolved from making reparation to

the other party.[1] Between these two extremes there are innumerable conflicts between the obligation of fulfilling agreements and other duties of various stringency, and problems so casuistical had best be passed over. Were only the actions of the perfect man under consideration, the question would not have been raised, for he would not be beguiled into questionable agreements. But the judgment the perfect man would render on these cases when called upon to speak had to be considered, and accordingly the unsuccessful attempt was made to interpret that judgment.

(2) Suppose it becomes impossible to fulfil the undertakings of the agreement, what obligation remains? The general legal and moral rule is, that while impossibility of performance of course renders specific fulfilment impossible, it imposes in place full obligation to pay damages which will, so far as possible, compensate the other party for the loss suffered through non-performance. For in contracting men are supposed to consider the risks, and to make special exceptions of cases in which they anticipate that performance will be impossible. And where they fail to include such exceptions, and performance becomes impossible, they must as a rule pay damages. Undertake only what you can perform, but if you cannot perform what you undertake, pay damages: so say morality and the law.

And it may be said here that where the breach of contract or agreement is wilful, instead of unavoidable, there is the duty to pay compensatory damages, and, of course, the release of the other party.

But there are exceptions to the general rule. For there are cases where the impossibility is of such a character that neither party can be supposed to have contemplated

[1] Where reparation is a duty, the agreements are much on a par with agreements involving impossible or onerous performance. Vide (2) and (3) below.

its occurrence, so that the promisor neither excepts such contingencies specifically, nor promises unconditionally in respect to them. In cases falling under the three following heads contracts cannot be enforced at law: where the thing which is the subject-matter of the contract is destroyed without fault of either party, where a party agreeing to render services dies or becomes incapable of performing them, and where the law makes impossible what was not so at the time the contract was entered into. A reading of the cases will show that there is moral as well as legal justification for the exceptions. In addition to the reasons given above, in the three cases mentioned, and in others similar to them, the impossibility is in the nature of a calamity, and the party who suffers by it must bear it with what fortitude he can.

(3) Finally, though not impossible of performance, the services agreed to may become extremely onerous on the promisor, either in themselves, or because of the conduct of the promisee. Is the promisor then called upon specifically to perform what he undertook? The answer is, that he is called upon in morality and equity to pay damages in full compensation for the failure to perform, but that he is not called upon to render specific performance, if the agreement is so unfair and unequitable to him as to be onerous and oppressive, or if there has been unscrupulous or unfair conduct on the part of the other party who asks performance (since "he who seeks equity must do equity"). The general principles involved seem to be, that in spite of their foresight, men in making agreements are in large measure groping in the dark, and that while a promise is something of value to the promisee, and is therefore something for which he may rightly recover full value in case it is not redeemed, yet he has no right, after the example of Shylock, to use the promise as a means of onerously oppressing the promisor, nor to adopt a low standard in his dealings with the promisor, and at the

same time demand that the latter shall live up to the higher standard of scrupulous performance.

In short, passing over the difficult case of immoral object, genuine agreements impose the obligation of specific performance of the service promised, if they are not positively onerous and oppressive, and if the other party has been fair and equitable in his dealings in the matter, and even when one or the other of these conditions does not appear, there is still the duty to make full compensation, *i.e.* to pay damages that will put the other party in as good a position, so far as possible, as he would have been in, if the agreement had not been made and broken. What was said of money damages and reparation in general in the case of private wrongs applies equally in regard to reparation for unfulfilled engagements.

Duties arising from Promises. — We have been considering the obligations that arise when one man agrees to perform some service in return for some service received or to be received. The obligations that arise from one-sided promises are now to be considered.

As a rule Anglo-American courts only enforce promises made for "valuable consideration," at least most of the promises they enforce are of this description. But civil law courts enforce unilateral, or rather gratuitous, promises, and even common law courts enforce some promises made in prescribed form and with special solemnity. The solemnity seems to be required, as Professor Sidgwick says, "(1) as a protection of the inconsiderate, and (2) as evidence of the fact that the promise was really made — as 'preappointed' evidence."[1] And both grounds seem well taken. For it does not seem just to take advantage of every rash statement of inconsiderate intention, nor is it easy to distinguish lightly spoken statements of good intention from deliberately intended promises, except by the greater solemnity or at least seriousness of the latter.

[1] *Op. cit.* p. 90.

But when a promise is made by a capable person and accepted and counted on by the promisee, there is certainly obligation to fulfil it, in the absence of onerousness and inequitableness, as before described. And if either of these conditions is not fulfilled, there is the duty to make reparation, at least sufficient to compensate for the outlays (using that word broadly) of various kinds made by the promisee in the expectation of the fulfilment of the promise.

§ 7. Duties arising from Personal and Other Relations

Passing now to the duties that arise out of personal and other relations, it must be said at the outset that, in the present state of the science of jurisprudence, only principles of the utmost generality can be discovered. The law in respect to such duties is in much the same state as prevailed in the law of torts before the middle of the present century. The authorities on jurisprudence have not worked up the subject — which deals with what may be called torts of omission — as a distinct subdivision of the law, and the only sources available, scattered decisions and statements appearing in many text-books on various subjects, cannot be dealt with safely except by experts in the law. All that will be attempted will be to give some idea of the relations on which the obligations are based, and of the most general principles that govern in determining the duties that arise from these relations.

First, then, there are certain relations into which men are born, and as long as these relations exist they give rise to special mutual obligations, not necessarily or usually the same for the two parties concerned. Typical here are the relations of parent and child, brother and brother, and the other blood relationships. In law and in morality special obligations spring from them. Very similar to them are the ties between a citizen and his country, a man and his community or section, and similar civic relation-

ships, though under modern conditions residence and even allegiance can be so readily changed that these duties are not so full and stringent as they once were.

But secondly, at the present time, under the régime of contract instead of status, most relations that give rise to special obligations are founded on contract and agreement, though the obligations in question are largely independent of the terms of the agreements. Most typical here is marriage. Marriage is voluntarily entered into, presumably by persons having capacity to contract, but the terms of the contract cannot in any way impair the obligations that the law and morality impose upon married pairs. It is optional to enter the marriage relation or not, but once the relation has been entered into, there are some obligations that must in law, and many more that must in morality, be fulfilled. And similar is the basis, speaking generally, of the obligations resting upon guardians and wards, masters and servants, brokers, factors, and other agents and their principals, trustees and the beneficiaries of trusts, executors and administrators and the creditors and heirs of the estate administered upon, etc.[1] An agreement is the basis of these relationships in each case, but the resultant obligations are largely independent of the terms of the agreements. Here it is that the relationship of each man to his property belongs, a relationship upon which rest some of the most important rights and duties known in civilized societies. These rights and duties are commonly based on contracts, but they often go far beyond the terms of the contracts on which they rest.

The relationships thus briefly indicated will suggest the many others that are recognized and regulated by law, and that give rise each to its special body of rights and duties. Now, while it is undoubtedly true that the law does not

[1] In some of these cases the relation does not rest upon contracts between the parties, but on contracts between one of them in each case and third parties, but the principle is the same.

recognize rights and duties as arising from *all* relationships, it is important to note that it could not be expected to do so, and that it recognizes all the relationships with which it is wise for the courts to attempt to deal, and all the rights and duties they can wisely undertake to enforce. And considering the sensitiveness of the law to relationships as legitimate bases on which to found rights and duties, two principles may be laid down in this difficult field: first, every relationship in which a man is involved is the ground for special obligations to the other party thereto; and secondly, different relationships give rise to different obligations. These principles are very abstract, but they are no small or unsubstantial part of what moralists since Hegel's day, and of his school, have been contending for, as against the much abstracter formulation of Kant and his followers, and upholders of the intuitional school generally, and to those who sympathize with modern scientific methods, Hegel's principles receive a much firmer foundation when they are discovered to rest upon the law as it has been developed by the slow inductive methods of the courts.[1] Further, though the principles themselves are abstract, they describe duty as something utterly concrete. For they teach that a man's duty can be determined only after his relations down to the concretest detail have been determined.

Nevertheless it is much to be regretted that jurisprudence is so backward in this field. Were the laws of torts of omission fully worked out, it would be possible to say, not only that each relationship imposes special obligations, but what obligations each relationship, or at least what obligation each main head of relationships, imposes, and that would indeed be a gain.

[1] Cf. Dewey, *Outlines of Ethics*, XXXIII.

§ 8. Justice to the Unjust

The problem of this section has been incidentally touched upon at several points before, notably in the last chapter, and in dealing with proper reparation for private wrongs of commission and omission in this chapter. As regards the just treatment of those guilty of private wrongs, there is comparatively little difficulty, though no doubt even here there is too often failure of justice. The general principles are, that there should be an impartial inquiry in each case, when each side is given an opportunity to state its position, and that, if wrong has been done and suffered, there should be reparation, as before described.

But in the matter of public wrongs there is much greater difficulty in regard to the proper treatment, both of those accused of wrong-doing, and of those convicted of wrong-doing. As to the latter, alike in the legal sentences passed by the courts, and in the carrying out of the various sentences by prison officials and others, there is a confusing diversity in civilized lands. And when the form of trial to which suspects are subjected is considered, the procedures under common and civil law respectively are very far apart, the practices characteristic of the two systems exhibiting greater differences than are observable in any other department of the law.[1]

The Two Systems of Criminal Procedure. — Taking up the question of criminal procedure first, the following description by Sir J. F. Stephen will give a good introductory idea of the differences between the common and the civil law: "In practice it will be found that most systems of criminal procedure proceed mainly upon one or the other of two views of the question. They regard

[1] Unless it be in the existence of a *droit administratif* in civil law and its non-existence in common law countries. But this is a difference very similar to that to be described in the text.

a criminal trial either as a public inquiry, in which the object is to ascertain the truth for the sake of the public interest, or they regard it as a private dispute, in which the object of the accuser is to obtain, and the object of the person accused is to avoid, the infliction of legal punishment for the alleged crime. Probably no system of procedure is founded exclusively upon either of these principles . . .; but the one or the other view of the case must predominate in every system, and it may be convenient to distinguish them, for the sake of clearness, as the litigious and the inquisitorial principles. The English system of criminal procedure is almost exclusively litigious; the French almost exclusively inquisitorial." [1]

It is not easy in a few words to give a satisfactory idea of the difference between the two systems, but a very brief description may serve to suggest their difference in point of view, which is what we are mainly interested in here. Differences appear both in the preparation of the case for trial, in what the French call the *instruction*, and in the trial itself.

Under the litigious system, when any one is accused of crime, a preliminary inquiry is held in order to determine whether he shall be committed for trial. In this preliminary inquiry, the prosecution, which is entirely independent of the justice holding the inquiry, gathers evidence and summons and examine witnesses, while the accused has the same right, and even greater facilities in the way of securing the attendance of witnesses. During the inquiry the accused is imprisoned, or required to give bail for appearance, but only in the interest of his safe custody, for his detention in no way interferes with his preparation of his defence, nor may it be taken advantage of by the prosecution for interrogating or securing damag-

[1] *A General View of the Criminal Law of England.* The quotations that follow on this subject are all taken from the same book between pp. 154 and 168.

ing admissions from the accused. The latter is not obliged to speak at all, though he has an opportunity to do so, after the warning that what he says may be used against him at the trial.

Under the inquisitorial system, the *instruction* is much less favourable to the accused. The prosecuting officers "receive and collect evidence of every kind in reference to any crime which has been committed, and constantly interrogate the accused upon every point of the charge, and confront him, from time to time, with the witnesses. They have it in their power to place the accused in solitary confinement . . . — and constantly exercise it — the object being to prevent him from communicating with his friends, and from forming any systematic defence. They keep him in ignorance of the depositions which may have been made for or against him, and then question him on the facts to which they refer. By comparing together these various sources of information, they gradually elaborate a theory on the subject, which . . . is supported not only by arguments of a most refined character, but also by considerations drawn from the manner in which the witnesses give their evidence, the degree of frankness shown by the accused in his answers, and many other circumstances. This is called 'instructing the process.'" Moreover, there is an intimate official connection between the officers who instruct the process, and the court which finally hears the case.

And the trial itself is different under the two systems. Under the litigious system, the trial is conducted on much the same lines as the preliminary inquiry. It is not merely "the last stage in an elaborate process, every part of which relates to, and is recognized in, every other part," but at the trial "the preliminary proceedings go for nothing, and every fact must be proved by original evidence." Moreover, the attorney for the state "ought to act as an advocate indeed, but as an advocate who has many of the

duties and responsibilities of a judge, and who contends not for the success of his cause at all events, but for the full recognition by the judge and jury of that side of the truth which makes in favour of it. It is his duty to see that the case against the prisoner is brought out in all its strength; but it is not his duty to conceal or in any way diminish the importance of its weak points. His function is not to inquire into the truth, but to put forward, with all possible candour and temperance, that part of it which is unfavourable to the prisoner. "After the examination of the witnesses for the prosecution comes the defence of the prisoner, either in person or by his counsel," who acts throughout the part of an advocate simply, securing for his client every advantage that the facts or the law afford him. "In practice it is universally admitted that the prosecutor is morally and professionally bound always to keep in sight the ultimate object — namely the discovery of truth; whereas no such obligation is laid upon the prisoner and those who represent him." When "the evidence is concluded, the judge sums up: his position from first to last is that of a moderator between two litigants. His summing up may, and generally does, indicate his opinion; but it is an opinion which is the result of the evidence laid before him, and not of an independent inquiry."

To this procedure the inquisitorial trial offers a striking contrast. After the trial opens, "the prisoner is interrogated in private by the president" of the court, who is a close official associate of the officers who have conducted the *instruction*, and worked out the theory of the guilt of the accused which is the immediate cause of the trial in progress. "The Procureur-général (the representative of the state) then generally opens the case against the prisoner, speaking with far more warmth, and expressing a much more decided opinion than would be thought becoming in this country. The president then interrogates

the accused, after shortly stating the facts to him, and the witnesses are then heard, the Procureur-général deciding on the order in which they are to be called. . . . After the depositions are complete, the president cross-examines; and after his cross-examination is over, the counsel for the prisoner may put any further questions if he pleases; but he can do so only through the president. This privilege is hardly ever exercised." Then come the arguments to the jury, if there is one, and the summing up of the president, which is just a summing up. "The issue of the trial is virtually almost decided before it begins, because it is only the last act of a continuous process," in which a body of officials seek for a theory to account for a crime, and then "are bound by all the ties of official *esprit de corps* and personal vanity to maintain the accuracy of the conclusion at which they have arrived." [1]

The Greater Justice of the Litigious System. — The general plan of the chapter is to set down as principles of justice only such rules as are embodied in both the common and the civil law. But where so marked a difference appears on a point of such fundamental importance, it becomes necessary to decide between the two systems of law, on the basis of the principles of morality the present investigation has disclosed.

The litigious system proceeds upon the principle that the state or society has interests (including to be sure interest in being fair to those accused of crime) and that the accused has interests, and that both should have the opportunity to assert and support their respective interests before a tribunal, which should be entirely impartial. The

[1] Justice Stephen's account was written in 1863, and some changes have taken place in the meantime. Moreover, it was written by an English judge, more familiar with, and, possibly, more appreciative of, the litigious system. But the account is substantially just to-day, and there is no other so reliable and useful for our purposes.

theory of the inquisitorial system seems to be, either that the interests of those accused of crime are fundamentally identical with those of the state, or else that officers of the government can do impartial justice alike to the interests of the accused, and to the interests of the state.

In judging the justice of the inquisitorial system, the crucial question is, whether or not the interests of the accused and the interests of the state are fundamentally identical. If they are not, the system is unquestionably unwise in assuming that officers of the government cannot only judge impartially between the accused and the state, but can advocate and defend both interests with equal zeal. For when two sets of interests are in strong conflict, it is contrary to human nature to support the two with equal aggressiveness and zeal; partisanship is too strong a factor in man once he plunges into action.

And when we turn to the prior question, and ask for the relation between the interests of the accused and the interests of the state, the entire account of morality given in these pages makes it clear, that, provided the accused is a criminal, as ninety-nine out of one hundred are, there is a fundamental and tragic conflict between his interests and those of society. For by definition public wrong-doers and criminals are men who injure society and its welfare — men whose natures are such that their normal bent makes for injury to society; were it otherwise, the declaration that a prime necessity is the protection of society from criminals would be senseless. On the one hand, there are men so constituted that the means they naturally and normally employ to serve their interests bring injury to society; on the other hand, there is society, whose welfare demands that socially injurious actions should be repressed, and those who perpetrate them so restrained as to minimize the danger of their repetition.

Now, of course, society and its officers are right in repressing crime and restraining criminals, for morality is con-

duct that maximizes social welfare, and less harm is done by repressing criminals than by allowing them to oppress their fellows. And of course the criminal is wrong, for his injury to society, even when diminished by the benefits his criminal course brings him, is much greater than the injury repression brings him, after the good done society by his repression is deducted. But the fact that it is right to repress or "punish" the criminal, that it is right to choose lesser injury to him and greater good to society rather than greater injury to society and lesser good to the criminal — the fact that it is *right to repress and injure* the criminal, in no wise does away with the fact that the criminal *is repressed and injured*. In short, the "punishment" of criminals is injury to them in order that greater injury should not be done society, and it is right for that reason;[1] and a criminal trial is in fact, and should be in form, a judicially conducted conflict between the criminal, whose interest consists in escaping injury so far as possible, and society, whose interest consists in securing itself against injury from the criminal, even at the cost of injuring him.[2]

Now the litigious system is based upon the theory of a conflict, in which both sides should be given an opportunity to make the most of their cases, and for that reason it is in accord with the facts, and is superior to the inquisitorial system. To be sure the judge and jury, the representatives of society, have the last voice, but they do not take any part in attack or defence, they take no *active* part in the contest, confining themselves to deciding which of the two contestants has made good his cause. Accordingly when Sir J. F. Stephen says, "Upon the general merits of our mode of procedure it must be observed that the inquisitorial theory of criminal procedure is beyond all question the true one. It is self-evident that a trial ought to be a

[1] See remarks on reformation below.

[2] The problem of the conflict of interests between some of the immoral and society will be discussed more fully in Ch. XVI, § 2.

public inquiry into the truth of a matter deeply affecting the public interest"; it is necessary to dissent — however reluctantly and hesitatingly one dissents from so learned and expert an authority — from the too moderate estimate of the justice of the litigious system. Were the public interest alone involved the position would be well taken. But the conflicting interest of the criminal is also involved, and consequently a trial is a conflict, and not merely a dispassionate academic inquiry.

Just Treatment of Convicted Criminals. — The conclusion reached as to the tragic conflict of interests between criminals and society may now be used to throw light on the nature of just treatment for convicted criminals.

The demand for social vengeance, for the infliction of suffering on criminals in return for injuries to society, is without any justification. Because there is a greater balance of good and a lesser balance of evil in that course, violence must be done to the inclinations and natures of criminals by restraining and coercing them. But it is unfortunate that the necessity exists, and regrettable that it is impossible to protect society at less cost to criminals. Any unnecessary twinge of suffering inflicted on them is a wanton wrong.

As an end in itself, deterrence is unjustifiable. The necessity of doing violence to criminals is hard enough and it is intolerable and unjust to inflict suffering upon them as a means of warning others off from crime from fear of a similar fate. As Kant says, every human being is an end, and not merely a means.

Protection of society from criminals is justified, because injury to the latter by their restraint is less than the injury to others and to society if criminals are not restrained. And of course it is right that the protection should be as effective as it can be made; but it is also the duty of society to make restraint as little injurious to criminals as possible.

Not only a justifiable but a very high aim as well, is reformation, the attempt to transform criminals from anti-social men into social men. With all the mercy it is possible to show them, criminals under restraint for social protection do not enjoy a happy lot, and any treatment that will reform them, and render further restraint of an extreme kind unnecessary, is for that reason a relief to society and a service to them, and is both for the additional and important reason that it makes better men of criminals, which is an intrinsic gain. Even if a considerable amount of pain is an incident of the reformatory process, the service rendered compensates for it. And as, in order to reform, it is essential that wrong-doers should recognize the wrongfulness of their past conduct, and the immorality of their characters, public indignation and disapproval, whatever its sting, is justified (in appropriate cases) as a means of awakening this so essential moral self-condemnation.

The highest aim is at once to reform criminals and to reform society. For not a few men are criminals largely for the reason that the social structure has not been cunningly enough devised to provide places into which men of their capacities can fit. Society has its own faults and commits its stupidities and blunders, — among them the blunder of resting satisfied with stupid schemes of justice and of morality generally, — and society must in time be reformed so that better use will be made of and better opportunities be given to men of all sorts and conditions.

And now it may be pointed out that if the purpose of a criminal trial is to reform the accused, if guilty, there is not the same conflict of interests between him and society as was before described. But communities which are effectively concerned for the reform of criminals and of society, will insist on the scrupulous fairness to the former characteristic of the litigious system, or at least communities without that insistence on fairness are not likely to be concerned in those reforms.

§ 9. Charity

The Justice of Charity. — But not only do society and social arrangements come into *positive* conflict with the interests and natures of individuals, as seen in the last section, they also so largely withdraw from some individuals the opportunities for self-help that these individuals are reduced to a state bordering on need, and they put other individuals, not so hardly used, at a great disadvantage as compared with their fellow-members of society. Here again it should be recognized that it is right to give the best opportunities and greatest rewards to those who are most serviceable to society, and as serviceableness decreases, to diminish rewards and opportunities. And men have not yet been able to devise a social system in which the rewards, in property, etc., secured to the specially efficient do not withdraw opportunities from the inefficient, till the point is reached where no opportunities remain, and disadvantage takes the place of reward. And as long is this is the case society should and actually does negatively injure many men by warning them off from advantages and refusing them opportunities.

This state of facts imposes a double duty. If it is unavoidable and necessary for social welfare that society should reward the most efficient by giving them property in so many of the good things of life, that the comparatively inefficient are cut off from nearly all opportunities and rewards, society must in justice compensate the latter in the way of charity for the hardships that are put upon them in the interests of social welfare. And again it is only just that the efficient men, to whom society secures very great rewards because of their social service, should also compensate those against whom their monopoly closes the door of opportunity. Public charity is just, and charity at the hands of the exceptionally favoured, who hold their wealth in trust for society, is just, the proper beneficiaries

being those who are put at a disadvantage for reasons of social expediency. In this field charity is a corrective of the injustice of social systems, needed even in case of the best social systems so far devised.

Charity and Individual Welfare. — But there are some individuals who do not fit into the description just given, men whose failure to care for themselves and secure well-being is not due to social withdrawal of opportunity, but to inherent deficiency and inefficiency, or from misfortune, *e.g.* the blind, the deaf, the insane, some of the sick-poor, and the victims of calamities that could not have been guarded against. Is assistance to these classes charity pure and simple? Even here it may be pointed out that no man can tell when he or his will be visited with inefficiency or misfortune, and that the consciousness of living in a benevolent community, and of security from desertion in case of extreme distress, of itself compensates for many sacrifices.

But, waiving that point, the welfare of each individual, so far as it can be secured, is the increasingly important part of the supreme end, and while public charity and charity by the exceptionally well-to-do furnish the chief means for serving this end in the case of those who cannot help themselves, yet every man who is able is morally called upon to do his share in this direction as in all others.

The duty of charity, therefore, is partly based on the justice of repairing negative social injustice, and is partly the original and basal duty of serving individual welfare.

The subject would repay a much longer discussion, but of this space does not admit.

Summary of Chapter. — The chapter opened by an investigation which reached the conclusion that legal justice is the best basis on which to found an accurate, adequate, and authoritative conception of justice. Proceeding upon this basis, it appeared that justice consists in refraining from private and public wrongs, which were in part described,

in fulfilling the obligations of agreements and promises and of all the relations in which men find themselves, and in acting fairly both towards those who injure society and whom society is compelled positively to injure, and towards those whom society is compelled negatively to injure. And while not a matter of justice, morality demands, as an incident of the service of individual welfare, that aid should be given the inefficient and unfortunate.

CHAPTER XIV

Wisdom

§ 1. Introduction

In Chapters X and XI an attempt was made to describe the virtuous man in terms of will, only to find that without specification of emotional and intellectual characteristics virtue is not adequately described. In Chapter XII a similar inadequacy appeared as a result of the attempt to describe the virtuous man in terms of feeling or inclination. And while in Chapter XIII quite a little was discovered as to the nature of virtue or objective morality, yet it proved to be impossible to specify rules of conduct that would exhaustively describe objective morality. For the rules must be devised, applied to concrete cases, and kept in harmony with changing conditions. In short, in addition to qualities of will and feeling, and to familiarity with a code of objective rules, the virtuous man must also have the insight that makes good judgment possible, or in other words he must be wise.

And, coming now to the exposition of the nature of wisdom, it is evident that a description of wise conduct will be impossible, and that a history of wisdom in the matter of conduct will be unnecessary. For any description of wise conduct would specify general rules and types of conduct, and all that is here possible in that direction was accomplished in the last chapter; describe wise conduct, and it turns into just conduct, conduct there are sufficient reasons for approving, and no sufficient reasons for disapproving. And the same considerations make it clear that

a history of wise conduct would in the writing turn into a history of just conduct.

It would no doubt be possible to give a history of the wise man, *i.e.* of the varying characteristics of the man of good judgment at the successive stages of human development. But, after all, good judgment is good judgment, and insight is insight, wherever you find them. And, while one man may be wise in one direction and under some circumstances, and another wise in another direction and under other circumstances, and while a detailed description of wisdom would point out the differences, yet the account of the wise man here given cannot be sufficiently detailed for that purpose, and, besides, historical sequence is not of prime importance in this field. What can be said of wisdom in specific directions will appear in the discussion of experts, § 3.

The plan accordingly will be to describe in very general terms the characteristics of the wise man, the traits of mind and character that give to some men a certain inevitable rightness of judgment and action that is denied to their fellows. The description does not pretend to be and in any event could not be full. It is not an infallible guide by means of which the wise man can be identified. But it may give some useful hints to those who wish to discover and observe wise men with a view to learning wisdom from them, so far as that is possible. And, it must be repeated, however imperfect a method, the observation of wise men, and practice in being like them, are the only methods of learning the nature of wisdom, for wisdom or insight cannot be described.

§ 2. The Wise Man

Wisdom finds expression in judgment, both the form of judgment that is voiced in words, and the form that, without words, often without so much as distinct mental conclusions, infallibly issues in precisely the right action.

But folly also finds expression in judgment, not in good judgment, but in bad judgment. And accordingly the problem is to distinguish good judgment from bad judgment.

Evidently, speaking in general terms, in order to good judgment, three conditions must be fulfilled. Before he judges, the man who is to judge wisely must have a befitting equipment, else success is compromised at the start. The act of judgment itself must be good. And this act must be effective, it must lead to the wise action which is the *raison d'être* of the whole process. There are certain requisites before, during, and after the act of judging. These requisites, it will be found, fall naturally into mutually limiting pairs in each case. For the wise man has a comprehensive mind and yet is sagacious, he is cautious in reaching conclusions and yet decided, and he is firm and yet reasonable.

Comprehensiveness and Sagacity. — A man fails of wisdom if he is ignorant of any facts pertinent to the situations in which he is called upon to act, or if, knowing any pertinent fact, he has insufficient command over his knowledge to bring the fact up at the right time. A wise man has breadth of knowledge, *i.e.* he knows all the facts necessary; he is acute or keen, *i.e.* he knows each fact with sufficient precision; and he is resourceful, *i.e.* he has command over his knowledge and is fertile in ideas.

In modern days, with the vast accumulation of knowledge, comprehensiveness means learning and a trained mind. It means that a man has some facts subject to instant recall, and a training that enables him to think his way to other facts when necessary, and to find, in books and elsewhere, the large mass of facts that cannot possibly be kept in mind. Among the facts that the wise man would know, in the sense of the word just indicated, are those that constitute justice.

But a man falls as far short of wisdom if he fails of

sagacity. He may be a very encyclopædia of learning, and yet be quite foolish in his views and actions, if he is not sagacious. For sagacity or mother-wit is the faculty of holding to the pertinent considerations and unburdening one's self of the considerations that are not pertinent, and without that faculty good judgment is impossible, as a man then neglects the essentials and allows himself to be annoyed and influenced by the unessentials. So important is sagacity that it is popularly thought to fall little short of constituting the whole of good judgment, a sagacious man being called a man of judgment.

In various fields sagacity has various names. In matters of theory it is sometimes called acumen. In social dealings it is called tact. In the handicrafts, that word being used in the widest sense, it is called skill. But probably the most adequate designation for it is genius.

If a man is not benevolent, brave, and temperate, inclinations will tend to warp, and will not be prevented from warping judgment. Pertinent considerations will be overlooked, non-pertinent considerations will be held to, and possibly from both directions errors will arise.

Caution and Decision. — It will not be necessary to discuss this pair of qualities at any length. A cautious man will not stop deliberating and form a judgment until a sufficient number of questions have been satisfactorily answered, while a decided man will make up his mind as soon as further consideration would in no way improve the judgment, or as soon as further delay would render action impossible or comparatively inefficient. The cautious man is concerned for abstract wisdom of judgment, the decided man for prompt and "practically" effective judgment. And of course the practice of each conduces to wise judgment when the other practice is united to it in the same person, while either by itself alone, *i.e.* either rashness of judgment or indecision, stands in the way of good judgment.

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Caution, it will be observed, is more closely allied to comprehensiveness than to sagacity, while decision is rather allied to the latter, from the fact that it is a matter of sagacity to decide at the right time. Again, without the four virtues previously discussed neither caution nor decision is possible.

Firmness and Reasonableness. — Here again the facts are so plain that little need be said. The evident purpose of deliberation and judgment is to reach the best decision possible, and the presumption is that the decision reached is wiser than any opinion suggested by impulse. Accordingly it is at least plain that the wise man would be sufficiently firm or resolute to adhere to his decisions in spite of any inconsiderate impulses to change them. And again, it is at once plain that the man who never acts deliberately cannot be wise, and that no deliberate actions are possible for the man whose decisions are at the mercy of *any* fresh facts that come to knowledge. So the wise man will not be lightly moved to deliberate again over a question he has definitely decided. On the contrary, he will hold to decisions resolutely and firmly.

But, on the other hand, firmness degenerates, if unchecked, into stubbornness, or, to use a homely but very expressive term, into pigheadedness. An erroneous decision, or, for that matter, a decision that was wise at the time it was made but became erroneous because of change of circumstances, may be corrected if reconsidered with more light on the facts. In short, to be wise a man must be reasonable, — he must be ready for good reasons to reconsider his decisions.

Again, all the four virtues described are necessary both for firmness and for reasonableness. Possibly courage is needed rather for firmness than for reasonableness, and benevolence and justice rather for reasonableness than for firmness; but that is merely a matter of emphasis. And in its respect for facts as such, reasonableness is rather

allied to comprehensiveness and caution than to sagacity and decision, while the opposite is true of firmness. But these statements lay no claim to accuracy and precision. They merely mean that the broad-minded man is somewhat likely to be cautious and reasonable as well, the reasonable man to be broad-minded and cautious as well, etc., while the sagacious man is likely to be decided and firm, though it does not follow, and is not true, that the decided and firm man is likely to be sagacious. At all events, whatever else is necessary, to be wise a man must possess all six characteristics in due proportion, and thus to possess them he must be endowed with the four virtues previously discussed.

§ 3. Abstract Wisdom and Embodied Wisdom

But the day of the man who is wise in all directions has passed, if indeed there ever has been such a day. The field of knowledge is so vast that no one man can know all sciences, or so much as the whole of any one science. Nor can one man know the rules of all arts, or even of one art. And while one man may have the skill or sagacity and the learning necessary for wise action in one art, or possibly two, a broader skill than that is scarcely possible.

But, although as knowledge and skill grow, individual wisdom seems to shrink, the fact nevertheless is that the wisdom, individual and collective, of the highest races is greater than that possessed by any of their predecessors. And the explanation of this apparent anomaly is, that the stocks of stored-up learning and skill are at once improved in quality and increased in quantity, and are more accessible than ever before. Accordingly every man can draw on the accumulations of knowledge and skill, and the wise man knows how to draw on them, and thus to attain to a resultant wisdom of judgment and action that has heretofore been impossible.

The Sciences and Applied Sciences. — This is not the place to give a classification and description of the sciences, pure and applied. Suffice it to say that practically the whole universe of fact, organic and inorganic, mental and physical, that comes within human ken, is divided off into fields that are turned over to the different sciences for investigation, and that in all fields in which human activity exercises itself the applied sciences are seeking and formulating rules of skilful procedure. And on these great storehouses of theoretical and practical knowledge the wise man draws; and in part by that means broad-minded and sagacious action becomes possible for him.

But the attitude of the wise man to pure and applied science is always complex, for it is at once reverent and critical. On the one hand, the conclusions of science are the most highly authenticated conclusions that men have reached. Science deliberately sets to work to attain trustworthy conclusions; that is the one aim, and no pains are spared to compass it. Nor is the goal an object of isolated endeavour, each scientist working independently of every other. On the contrary, coöperation, chiefly by means of systematic publicity, attains a high efficiency in science. And while lucky guesses may reach better conclusions than science, the chances are very much against such a result. The wise man therefore respects science, and his presumption is that the settled conclusions of well-established sciences are trustworthy.

But the wise man judges sciences by their practical successes. He knows that each science has changed its mind, so to speak, many times in the past, and that scientific conclusions that were unanimously declared to be fully established have repeatedly been as unanimously abandoned. Moreover, the wise man knows that the laws of science, and only to a lesser extent the rules of applied science, are abstract and incapable in many cases of being put to practical use. So the wise man is critical of scientific conclu-

sions, not in the sense that he undertakes to correct them, unless he is a worker in the science in question, but in the sense that he does not accept them blindly or as a matter of course. And even when the wise man has no reason for doubting the correctness of a scientific conclusion, he does not make use of it unless he has reason to believe that it is fit for use, for he knows that the "theorist" is "doctrinaire" and "unpractical."

Experts. — Indeed, scientific knowledge is too abstract to be used by the average man, however wise. And the wise man, unless he be a wise scientist, rarely turns to science itself for aid, while even the wise scientist only turns to his own science. The chief resource of the wise man is the expert in each field, who may be called the embodiment of wisdom therein. For if the chosen field is not too broad and complicated for his powers, it is possible for a man to possess both theoretical knowledge and practical skill in that field; in it he can be both comprehensive-minded and sagacious. If a man has the six characteristics of wisdom, and among them knowledge of the conclusions of science so far as they apply to a particular art, and if he has put these conclusions to the trial and tested their practical utility, in that particular art he is an expert, a wise man of limited range, and yet as near an approach to *the* wise man once dreamed of as complex conditions permit.

But again, not every one who poses as an expert, or who is thought to be one, is an expert. And as one of the characteristics of the wise man is knowledge of when to use science and when not, another of his characteristics is knowledge of what "expert" to trust and what "expert" not to trust. Genuine experts are the wisest men in each field, but there is much sham expertness and many sham experts.

In a word, science and experts are not infallible aids, but the wise man so uses them as to make of them the best aids attainable. Wisdom accordingly consists of the

six characteristics discussed, and of a special aptitude in using the conclusions of science and the skill of experts.[1]

Means and Ends.— Only voluntary or purposeful action is wise or foolish. Non-voluntary action may be effective or ineffective, useful or harmful, but it cannot be wise. It follows, therefore, that action may fail of wisdom either because of the end or purpose sought, or because of the means employed to attain the chosen end. The man who is "worldly-wise" earns that title because of his happy selection of means for attaining worldly ends, but, as Professor Sidgwick says, "we should not call such a man wise without qualification," because he has probably unwisely chosen his end.

Now as regards means[2] and subordinate ends the ethical writer is not assumed to be any more expert than any other man; indeed, as regards what are ordinarily called practical affairs, he is likely to be less expert than the average man. But with regard to knowledge of the supreme end, the ethical writer is called upon to be an expert, under pain of failing in his chosen undertaking. It is only ethical scientists who undertake to give a critical and authoritative account of the supreme end, and such an account is to be found in their writings if it is to be found at all. The next chapter will accordingly undertake the task of describing the supreme end, though it will be convenient to point out here (1) that the account has in general the same authority and the same precariousness as other scientific accounts have, and (2) that no description can be expected to give an exhaustive account of the end, any more than it can of the

[1] The man with administrative ability is the most striking example of a man who knows how to make use of science and experts, though the administrator may choose ends unwisely.

[2] Inasmuch as moral conduct is a means to the supreme end, the ethical writer is in so far presumed to have expert knowledge of means, though not necessarily expert skill in applying that knowledge, *i.e.* he may in no wise be any better than his fellows. Cf. Ch. II, § 4.

virtues; in this case, too, there is a stubbornly indescribable remnant known only to insight. The wise man will in his actions serve the supreme end, and will in his insight view it, but not even he can describe it fully.

CHAPTER XV

Welfare

It appeared in the last chapter that Ethics is to give as full and accurate an account as possible of the ultimate end of moral action. This duty was in part performed in Chapter IX, where it appeared that the common good of all coöperating sentient beings, *i.e.* that sentient welfare, is the ultimate end sought. It now remains for this chapter to fill in that statement by further specification of the common good.

It will be remembered that sentient welfare is made up of two parts, individual welfare and social vitality, or the strength and survival-power of organized society. These two components will be considered in order, with a view to describing each as fully as possible. As a matter of historical interest it may be recalled that the question of the nature of individual welfare, *i.e.* the question as to what it is to the interest of each man to attain, was most clearly discussed by Greek and Roman moralists. Of course modern writers have discussed this prudential question, but in doing so they have often confused it with the question as to what each man as moral would seek to attain, *i.e.* with the moral question as to what each man ought to set up as the ultimate goal of his activities. The latter question has already been answered in Chapter IX, and individual welfare having been found to be a component of the ultimate good, it is now in order to describe individual welfare.

§ 1. Individual Welfare

There are many theories as to the nature of individual welfare, and it will be well to proceed methodically in discussing them. Probably the best method will be to take up first the theories that formulate their description in the simplest terms, and to pass from these gradually to theories whose descriptions are more complex.

The descriptions of hedonistic theories (from ἡδονή the Greek word for pleasure) are on the whole the simplest. These theories maintain that individual welfare is after all made up of pleasure distributed throughout life after one fashion or another, and therefore that it is best to define it in terms of pleasure and the absence of pain. Moreover, of the two forms, Quantitative Hedonism is simpler than non-quantitative Hedonism, as the former undertakes to describe well-being solely in terms of the quantity of pleasure, declaring that there are no other aspects of pleasure that need be considered. Accordingly, Quantitative Hedonism will be discussed first, Hedonism second, and afterwards more complex theories of individual welfare.

Quantitative Hedonism. — The opponents of Quantitative Hedonism sometimes maintain that it is to its shiftiness that the theory owes its remarkable vitality. Refute one argument in its favour, so its opponents say, and it turns to another; refute that, and it turns to a third, and so on till the first argument, which has meantime probably been forgotten, is turned to a second time, and the weary round is begun afresh. However that may be, there are several arguments in support of the theory, and they will now be considered in turn.

The two chief arguments for Quantitative Hedonism rest upon two different interpretations of the meaning of the word "pleasure." According to the first, the only "pleasure" is the pleasing or pleasant experience itself, *e.g.* the sensation of taste experienced in eating a juicy peach. The second

interpretation asserts, that while such an experience is certainly pleasant, the liking we have for it, the enjoyment or pleasure we take in it, is the real pleasure. Let us assume that there is a pleasant experience and a pleasure too, and consider Quantitative Hedonism from the point of view of each interpretation in turn. According to the first, individual welfare consists in having the largest possible amount of pleasant experience; according to the second, it consists in having as much enjoyment or pleasure as possible.

In support of the first form of Quantitative Hedonism there is advanced the psychological argument which maintains that, as a mere matter of observation, men in fact always prefer pleasant to painful experiences, and that, as between two pleasant experiences, they always prefer the larger or bigger. The argument is not that men should prefer the bigger, nor that men in so far as they are wise or reasonable prefer it, but that all men do prefer it. In so far as the argument asserts that men prefer pleasant to painful experience, it supports non-quantitative as well as Quantitative Hedonism. But the assertion that the only thing considered in assessing the value of pleasant experiences is the quantity or amount of each is solely in the interest of Quantitative Hedonism.

The cogency of this argument consists in its appeal to unsophisticated and unhampered liking. All sorts of considerations and forces confuse, beset, and influence men in their decisions. But if the argument indicated is sound, the genuine leaning of man, unspoiled by sophistical theory, and unhampered by disturbing influence, is towards pleasure, and, in presence of two or more pleasures, towards the largest pleasure. Here, then, there seems to be no chance for error. When man is stripped of all adventitious additions, and freed from all quirks and distortions, when he is brought down to his basal individual manhood, he declares, so the argument holds, for the greatest attainable amount of pleasant experience.

Because of the form in which it is stated, there is some difficulty in getting direct evidence against this argument. If it is pointed out that ascetics take to sackcloth and ashes, and to mortification of the flesh in other forms, the ready answer is, that their unsophisticated preference is for pleasant experience none the less, and that their choice is determined by fear of punishment for self-indulgence, and by hope of abundant reward in the next world for their present self-sacrifice. And if it is pointed out that many men forsake physical pleasures, that are more intense and extensive, for intellectual pleasures inferior in these respects, it is maintained in reply, that intellectual pleasures are more enduring, and less likely to be followed by disappointment, discomfort, and pain, and that these facts sufficiently explain the choice of the latter. And, in view of the impossibility of accurately measuring pleasant and painful experiences, and of the difficulty of disentangling the interwoven network of human motives, nothing that is conclusive and little that is profitable can be said in rejoinder; though it must be confessed that a sane judgment rebels against being forced to the conclusion that mere gross quantity is alone valuable.

But indirect evidence against this form of Quantitative Hedonism is not difficult to find, and is obviously conclusive once it is fully grasped. For it is a commonplace of psychology that every psychic state, whether pleasant or painful, has quality as well as quantity, and it is an undisputed commonplace of everyday observation that pleasant experiences are liked and preferred quite as much for their qualities as for their quantities or amounts. As to the first commonplace, a pleasant colour and a pleasant sound, *e.g.* in a picture and symphony respectively, may have the same quantity, *i.e.* sum of intensity, extensity, and duration, but the two can never be the same in quality. And so it is with two pleasant colours, or sounds, or kinds of muscular sensation, such as those

respectively experienced in pulling an oar and in thinking hard or using a pen. Besides quantity each of these pleasant experiences has quality. Again, quality, far from having no influence over desire and preference, has at least as much influence as quantity. The flavour or quality of an apple may be pleasanter than that of a plum of equal size! The pleasant muscular experiences incident to golf may be preferred to those incident to tennis, though there is likely to be more of pleasant experience in the latter. But it is not necessary to multiply examples. It is so evident as to be obvious that the quality of pleasant experiences, instead of being a matter of indifference, is one of the chief factors determining liking and preference.[1]

Moreover, in addition to quantity and quality, two other factors have considerable influence in determining liking and preference, and these are temperament, or inborn taste, and habit. Some men have a native preference for intellectual pursuits, and, among them, some for mathematics, some for literature, some for experimental science, etc. Other men in the same way prefer social, political, military pursuits, or some trade, or adventure, or idleness. The facts are sufficiently plain without further insistence, and it is also plain that, irrespective of mere quantity, one may become habituated to take pleasure in what before was unpleasant, and may come to take growing pleasure in some experience as time goes on. To be sure, to say that temperament and habit influence liking and preference is not so accurate as to say that temperament and habit in large part consist of likes and preferences.

[1] Moralists have sometimes thought that the admission of quality as an intrinsically valuable aspect of pleasure involves a circular definition. And so it does if *moral* quality and the end that men *ought* supremely to serve are under discussion, for then the statement becomes that the morally supreme end includes, among other things, moral experience. But here the discussion is concerned with psychological quality and the well-being of the individual man.

The point is, that it is not quantity and quality of experiences that determine liking and preference, but these in conjunction with the individuality, with the temperament and nature of the agent. Accordingly, whether pleasures A or B shall be preferred by any man X, depends in part on the respective quantity or bigness of A and B, in part on their respective qualities or kinds, and in part on what sort of a man X is.

Of course, in view of these facts, the theory that the value of pleasant experiences depends on their bigness falls to the ground. If preference depends on quality and individuality quite as much as on quantity, it obviously does not depend on quantity alone.

But at this point the other interpretation of pleasure is adopted, and quantitative hedonists demur, on the ground that the facts cited are not to the point. The value of an experience does not depend, they will assert, on what kind of an experience it is, but simply and solely on the intensity and duration, *i.e.* on the quantity of the liking that it arouses, on the enjoyment of it experienced, on the pleasure taken in it. It makes no difference *what* is liked. The whole question is how long and how intensely it is liked, what the duration and intensity of the pleasure it arouses are. The quality of the sensation of taste aroused by an apple is different from the quality of that aroused by a plum; the kinds of muscular sensations experienced while rowing are different from the kinds experienced while thinking. But the real value of these experiences does not depend, quantitative hedonists now declare, on the nature or quality of the experiences themselves, but solely on the amount of enjoyment that is in fact derived from them respectively.

This argument of Quantitative Hedonism is plausible, but is in fact no sounder than its predecessor. Moreover, it has already been answered in the discussion of interest in self. Individuals are interested in having enjoyment, in being

pleased, contented, satisfied, and other things being equal, the greater or larger the enjoyment or pleasure the better. *But men are also interested in the experiences they enjoy* and have, and the value of the latter depends as much on their quantity and quality and on the individuality of the agent, as on the enjoyment they arouse. Fortunately most men take pleasure in the work by means of which they support themselves and those dependent on them. But, provided a man pursues an honest calling, the mere fact of working and supporting himself is valuable in itself. The man who supports himself is more of a man than the man who does not, and the life of the former is in so far richer, fuller, more desirable than the life of the latter, and though the labour be uninteresting this is still true, and it is true even when it is hard and irksome. Again, knowledge and education generally is a good, though it is proverbial that in much learning there is much weariness, and that disillusionments may be very painful. Difficulty, trial, risk, even pain itself may be a good, as an indispensable means for exercising a man's fortitude and teaching him the deeper things of life. A man who reflects is not likely to wish that these bitter-sweets had not come into his life, and if he could wish them away his life would be impoverished by their omission. Of course, labour, education, and other experiences of the same class are partly valuable because they give pleasure and are the fruitful sources of many other good things. But they also have an intrinsic value, a value of their own. In short, experiences that give pleasure are good to have, as is easy to see, but experiences themselves have a value, positive or negative, quite independent of their relation to pleasure and pain. And in fact men are more interested in their experiences, and especially in what they themselves are, than in the amount of pleasure they get out of life; and in assessing the value of each life for its agent, the last consideration is by no means the most weighty.

So it appears that Quantitative Hedonism cannot hold. The value of pleasant experiences does not depend on their size alone, but quite as much upon their quality and upon the individuality of the agent. Nor does the value of pleasant experiences depend wholly on the amount of pleasure they give, since the experiences that give pleasure, and even some that give pain, have an intrinsic value of their own. Moreover, it might be shown, if it were necessary, that the pleasures to which different experiences give rise differ in quality, and that this quality too must be considered in assessing the value of the pleasure and of the experience in each case. But enough has been said. It is difficult to hold to the first interpretation of pleasure, but if that is done, value is seen to depend on quality and individuality quite as much as on quantity. And when the second interpretation is adopted, it turns out that while the fact that the experience gives pleasure adds to its value, yet the experience itself has from the start a value of its own, which may not be neglected. In either case Quantitative Hedonism is an inadequate theory.

As a last resort, quantitative hedonists may say that though all men do not assess the value of experiences solely on the bases of the amount of pleasure they give, all wise men do make their estimates on that basis. But when quantitative hedonists retreat to this position, their cause is lost. For, in the first place, those reputed wise by general consent, from Socrates downward, are most conspicuous for neglect of pleasure and its amount, and for emphasis on the kind of experience they have and the kind of men they are. And, in the second place, no valid reasons can be given for maintaining that the quality of experiences themselves, and the kind of man one becomes in getting them, are negligible considerations in determining the value of experience.

Hedonism. — And now, dropping Quantitative Hedonism and coming to Hedonism itself, it appears at once that the

discussion just closed has greatly simplified what has to be said here. For it is only necessary to state explicitly the conclusions to which we are driven by the facts discovered. And the statement can be made in a sentence. To be pleased, to have enjoyment as intense and enduring as possible, is a good thing, but there are also experiences, some enjoyable, others not, which in themselves are also good to have. Pleasure is undoubtedly a good, but there are other goods, some of which are better than being pleased. Such is the conclusion to which the facts lead, and it is a conclusion that observation, however cursory, amply confirms.

There is indeed a broader form of Hedonism, called the happiness theory or Epicureanism, that contains an element of truth, and deserves a word for that reason. The happiness theory [1] admits, first, that pleasure differs in quality, and that selection is therefore necessary, and secondly, that some pleasures are accompanied or followed by pain, while some pains are accompanied or followed by pleasure, and that a systematic and well-organized plan is therefore necessary in selecting pleasures and pains and distributing them through life. The happiness theory, accordingly, refusing to rest on quantity alone, asserts that, just as the value of a wheat crop cannot be fully determined by separating the wheat from the chaff and then weighing the grain sacks, so the value of a life cannot be determined by merely separating pleasure from pain and calculating the amount of each. As some wheat is better and some worse, so is some pleasure better and some worse, and some pain worse than other pain. And again, as some men are good in themselves, but dangerous and to be avoided because of their associations, and others, insignificant enough in themselves, are so circumstanced that they must be reckoned with, and, it may be, deferred to; so pleasure may be

[1] Not to be confounded with Eudemonism, or the welfare theory. Cf. the discussion of Eudemonism that follows.

dangerous and pains choiceworthy. On the whole, according to the happiness theory, the value of a life depends on the prudent selection of pleasures and unavoidable pains, and on the tactful, the tasteful, the artistic arrangement of its included pleasures and pains.[1]

Now, in so far as the happiness theory insists on prudent selection, it is far ahead of Hedonism, for quality is a fundamental fact of life, as psychology is the first to show. And in so far as the theory insists on the value of a planful system, it is right beyond question, for the entanglement of experiences is inconceivably great, and only planful deliberation can make even a beginning of ordering them; and besides, a point of fundamental importance, man is essentially a planning animal, and his life would be inhuman and a failure if it were without plan.

But happiness or epicurean theories have always aroused suspicion and a certain manly revolt. To the healthy-minded, energetic man, full of resolve and interested in the accomplishment of his purposes, there is something unwholesome, decadent, perverted even, in the theory, and especially in the inward gaze of its upholders. Is life of much value if one is to be continually feeling of himself to find out whether he is pleased or not, and if so how much? Is such a life wholesome, satisfactory, worthy?[2]

And whatever the practical effect of holding the theory may be on the minds of those who believe in it, Epicureanism is in error, for reasons that are sufficiently familiar by this time. Broadminded and wise as the theory is in insisting on the importance of selection and organization of

[1] Probably the most finished and pleasing representation of this epicurean point of view is to be found in the late Walter Pater's *Marius the Epicurean.*

[2] Of course epicureans need not think only of pleasure. They may be wise enough to know that they must forget it to get it. But in selecting and arranging pleasures it is difficult not to think more of pleasure than of anything else.

pleasures and pains, it commits a fatal error in assuming that pleasures alone are valuable. The kinds of pleasure and pain selected and their organization may be fully known, and yet only a short step be taken towards ascertaining the value of a life. In addition it is necessary to know what *experiences*, pleasant and unpleasant, the individual has had, how these experiences have been selected and organized for and by him, and what manner of man he has shown himself to be. Planful selection and organization, as showing the manner of man, is of the utmost significance, but it must be planful selection and organization of pleasures, pains, *and experiences*, and not of pleasures and pains alone.

In sum, then, the examination of Hedonism has disclosed to us one of the components of welfare, one of the intrinsically valuable things of life, and that of course is pleasure. But it has also made it plain that every experience has its own intrinsic value, whether positive or negative, and especially that planful or voluntary action, as the indication and embodiment of character, as standing for the man himself, probably has more to do with the value of life than any other one factor. If a man has stood up for the right things, and battled for them in manly fashion, he is so largely fortunate that much ill in other directions cannot render his life valueless to him. That, at least, is the direction in which the facts examined point, and a little reflection will show that they therefore point to perfectionism, which accordingly must now be considered.

Perfectionism. — In fact there always have been moralists to maintain that from the prudential quite as much as from the moral point of view[1] perfection is a good, some going so far as to declare that perfection is the whole of individual welfare. To be sure, by definition the perfect man is the perfectly moral man, *i.e.* the man who does all that is possible in serving sentient welfare.

[1] Cf. Ch. IX, § 2.

But it is also said that the perfect man is the fortunate man, or, as the phrase goes, virtue *is* happiness.[1] There are differences of course, some perfectionists declaring that virtue is a component of welfare, others that it is the whole of welfare. But that question will be considered presently. Important to note at present is the fact that from Socrates, Plato, Aristotle, and the Stoics downwards it has persistently been maintained, chiefly in opposition to Hedonism, that the unvirtuous man essentially fails of welfare. As Hedonism has always had supporters, Perfectionism has always had supporters, both as a moral and as a prudential theory; one has been as persistently advocated as the other.

Probably Aristotle's profound remark suggests, when applied to the problem of individual welfare, the weightiest considerations in favour of perfection. For man is a political or, in modern phrase, a social animal. Were it not for the associated state, man would never have come into existence; had this state not continued, man would have perished. Man is born into society, is adjusted to society, and from society comes practically everything that makes life worth living for him. Again, man is distinctively a voluntary agent, and putting these two facts together, it is seen that it is of the essence of humanity, of manhood, to be a social member coöperating with other members in maintaining and perfecting society and in maximizing the welfare of all who belong to society. To be anti-social is, quite literally, to turn one's back on the source of all light and all civilization, of all comfort, decency, security, order, worth, nobility; in a word, it is to be inhuman and unmanly. And, of course, the present question is not whether or not a man ought to constrain his inclinations to virtuous or to so much as dutiful conduct. We are

[1] In this phrase happiness is used in the sense of welfare. Again, the discussion of Eudemonism, soon to follow, is referred to for the difference between happiness and welfare.

not concerned with man's obligations to become perfect, in so far as he is imperfect, or to remain perfect, if perfect he is. The question is simply and solely whether a less perfect man is more or less fortunate than a more perfect man, whether the man who is well adjusted to his fellows, and as serviceable as possible to the welfare of all, is to be congratulated or to be commiserated with, whether because of that fact his welfare is greater or less. And the answer is not doubtful. The man who is brave and temperate, who, in a word, is self-controlled, and who in addition is benevolent and just and wise, is not thought less fortunate for that reason. Men, whether from inertia, from hopelessness because of the magnitude of the task, or from ignorance, may not bestir themselves to become virtuous, but to admit that is not to say that they do not value virtue, but only to say that they do not always seek it and know it. And when others come near to perfection, while we may envy them, misjudge them, hate them even, yet, if we are convinced that they are virtuous, we certainly do not think that a misfortune for them. Rather, at least in the sincerity of our inner thought, do we consider virtuous men the most fortunate of their kind.

And, while virtue is unquestionably valuable in part because courage, temperance, benevolence, justice, and wisdom are the most fruitful of all qualities in the number of good things they bring their possessors, it must be insisted again that virtuous conduct, too, has an intrinsic value independent of the good it brings in, a value of its own that recompenses the virtuous man for many misfortunes. To have been a *man* throughout life compensates for many stings and arrows of outrageous fortune.

That perfection, that even a good approximation to perfection, is a contribution to individual welfare is plain to see, and it is because of this fact that there have always been perfectionists. But is it true that virtue is the whole of welfare, so that, provided a man is virtuous, his cup of life

is full? And evidently the answer must be in the negative. For, in the first place, happiness, and many valuable experiences that are neither happiness nor virtuous conduct, are necessary to welfare. And, while virtue does much to secure happiness and other goods, it cannot do everything. The individual is not the only power in the universe; there are other men, there are physical forces, and unquestionably there are other spiritual forces besides. And, being ignorant of physical and spiritual forces, and to a great extent of human forces too, we say there is such a thing as chance, and that, even though a man's power and desert should be at a maximum, misfortune may come to him nevertheless. The glory of civilization is, that lulled by its protections, men often forget their individual insignificance and impotence, and are tempted to believe that the virtuous man is all but certain to compass welfare. But with all the safeguards of the highest civilization this is not strictly true, while under less civilized or under barbarous conditions the virtuous man may be nearly submerged under misfortune, at the same time that the unvirtuous man flourishes and prospers in a worldly way. And the fact that under any conditions virtue may be coupled with misfortune and vice with good fortune is of itself evidence in full confirmation of our previous conclusion, that there are other goods besides perfection, and these goods consist, of course, of happiness and valuable experiences that are not virtuous conduct.

Hedonism and Perfectionism thus point out two components of individual welfare, pleasure, or better, happiness, and virtue, and both suggest that there are other components. These other components must now be found.

Eudemonism. — In a previous discussion eudemonistic theories were contrasted with perfectionist theories, the former maintaining that the ultimate end for each moral man is his own welfare, the latter maintaining that his perfection is that end. But at present it is not the moral end

but the prudent end that is being discussed, and inasmuch as Perfectionism declares, and rightly, that virtue is a component of individual welfare, Perfectionism has turned out to be a eudemonistic theory from this the prudential point of view. But it has also appeared that perfection is not the whole of welfare, and eudemonistic theories and welfare itself must be further examined in order to discover its remaining components. These facts and theories are somewhat confusedly interwoven, but the author is not responsible for their entanglement, but only for a reasonably clear statement of their interrelations.

Before proceeding to the examination, a question of terminology, involving the relative meaning of welfare and happiness, calls for a few words. Eudemonism is derived from the Greek word *εὐδαιμονία*, which I have always translated welfare, varying that word, however, in appropriate contexts, by substituting good fortune, a valuable experience or life, etc. This translation seems to be justified by the composition of the noun *εὐδαιμονία* and its adjective *εὐδαίμον*. For *εὖ* means well and *δαίμον* means a spirit, and consequently a man is *εὐδαίμον* who is under the protection of good spirits, or, possibly, to whom the gods are good; and such a man is fortunate, his life has value, and is filled with valuable experience. But this translation is not usual, for *εὐδαιμονία* is all but universally translated by happiness, and happiness has come to be generally used when welfare or good fortune would express the meaning far better. And the substitution of happiness is much to be regretted for the confusion it has introduced into Ethics. For happiness is so closely related in meaning to pleasure, that when one speaks of happiness, a life full of pleasures, well selected and arranged to be sure, is most likely to be thought of, while valuable experiences that are not pleasures are too likely to be neglected, if not entirely lost from view. Happiness is, to say the least, a very misleading translation of *εὐδαιμονία*, and happiness or

epicurean theories are thin, poor, inadequate, as has been seen, for they neglect some of the most valuable components of welfare.

The account of individual welfare given in this section is based upon the account given by Aristotle, who, of course, had *εὐδαιμονία*, or welfare, fully and clearly in mind as the object under investigation. That his account should have been so long and so much neglected is to be explained partly by the shifting of the stress of interest from the prudential to the moral problem, partly, in modern times at least, by the confusion of happiness with welfare, — indeed, it is difficult to point out any one since Aristotle who is not guilty of the confusion, — and partly by the persistent vogue of hedonistic theories, which are certainly simpler, and in so far more attractive. Note in the following quotations from Aristotle the mention of perfection and of other components too, and note, also, what other components are mentioned. "To constitute welfare," says Aristotle, "there must be complete virtue and fit external conditions," and in another passage, "Why, then, should we not call *εὐδαίμον* the man who works in the way of perfect virtue, and is furnished with external goods sufficient for acting his part in the drama of life; and this during no ordinary period, but such as constitutes a well-conditioned life as we have been describing it?"[1] And among the external conditions Aristotle has described are friends, money, political influence, good birth, fine offspring, even beauty. The list is empirical and unsystematic, and, indeed, Aristotle makes no attempt to make it exhaustive or to give it orderly arrangement. It serves well, none the less, to suggest the experiences that are valuable to men.

And now, following out these suggestions of Aristotle's, how is a satisfactory account of the components of a genuinely desirable life to be obtained? Two of these components, happiness and virtue, have already

[1] *Nic. Eth.*, Bk. I, Ch. XI, Lewes's Translation.

been obtained, and need no further consideration. And as to the remainder, the answer is similar to that given to similar problems in former discussions. The best way to discover these components is to find out what mankind has learned with growing experience unanimously to value. And the best way to find these valuable experiences is to discover the things that men have put forth their energies and undergone sacrifices to obtain, and once obtained, to protect, the things for whose protection men have instituted courts and put forth all the coöperative power they have been able to command. Nor is it necessary to undertake a fresh investigation in order to discover what these experiences are. They are already known from the discussions concluded in the chapter on justice. The interests that men have toiled for and protected, and called on the courts to protect, are made plain by the law of torts and the criminal law. And these interests are life, bodily safety and well-being, sense of security, personal liberty, enjoyment of property, friendly relations to other beings, useful knowledge, healthy social conditions, and good government. Add to these happiness and virtue, and a reasonably long list is already compiled.

But this list is not in the most convenient form. While it is certain that such persistent and coöperative efforts would not have been put forth to protect any but very valuable interests, it may be that some very valuable possessions are not included in the list, for only possession that the courts can protect appear therein. Now a glance at the list will make it plain that, with one or two exceptions, *e.g.* life, they consist of *sources* from which valuable experiences come, rather than of these experiences themselves. Liberty, for instance, is abstention from interference and constraint on the part of others, which gives, but is not, desirable experience. And so it is with property, family relations, reputation, etc. It would appear, then, that if a systematic idea of the sources of valuable experi-

TABLE OF COMPONENTS OF INDIVIDUAL WELFARE

SOURCES	DESIRABLE CONDITION OF SOURCES	VALUABLE EXPERIENCES
Own body.	Health. Skill (vide wisdom). Pleasing appearance (vide friends, etc.).	Sense of health; easy and satisfactory activity, etc. Reasonable consciousness (cf. wisdom). — Of skilful action. Of personal attractiveness.
Nature.	Property.	Satisfaction of reasonable (vide wisdom and benevolence) desires and inclinations. Sense of solvency and of financial security and power. Sense of leisure.
Other Selves. — Human beings.	Friendly feeling from family, friends, fellow-countrymen, fellow-members of organizations. Favourable judgment; admiration, trust, respect, etc. Friendly will, help, coöperation, abstention from interference, etc.	Consciousness of these desirable conditions, family or home experience, experience as friend, patriot, member of other organizations, occupation or office, satisfaction from social standing, coöperative and assisted activity, sense of external freedom, *i.e.* freedom from external hindrances, congenial enjoyments (vide health and prosperity).
Other Selves. — God.	Satisfaction with individual.	Sense of divine favour.
Other Selves. — The State.	External strength, internal worth, and law, order, and prosperity.	National pride, sense of security, *i.e.* of freedom from fear of violence or other injustice.
One's self.		Courage and temperance, *i.e.* self-control or internal freedom, freedom from the tyranny of one's unreflective nature. Benevolence: a body of spontaneous activities that are capable, strong, and well poised. Justice: systematic idea or sense of rights and duties. Wisdom: intelligence, learning, training, sagacity.

ence could be had, a more orderly and adequate account of the components of individual welfare would follow.

And such an idea is easy to obtain. For experience comes from each man's body, from nature in so far as it affects his body, from other persons or selves, and from the man as a person or self. On the basis of this classification of sources, it will be possible to specify the desirable condition of the sources, and the kinds of valuable experiences that come from them. (See table on p. 400.)

Remarks on the Table. — It will be noted that pleasure and happiness are not specifically noted in the table. But this is merely because all or nearly all the valuable experiences give pleasure, and all in combination insure happiness. For, as Aristotle says, pleasure is "a perfection superadded to an activity, like the bloom of youth to people in the prime of life."[1] It might have been well, under benevolence, to have mentioned content, a form of feeling which does more for happiness than any other.

The reader is asked to consider the list of valuable experiences as a whole. For no number of them without the rest constitutes welfare. This has been seen in the case of virtue, whose presence does much, but not everything, to insure the presence of other components, and the insufficiency of other components is greater and more evident. A man may be happy and content in spite of serious misfortunes, he may have health or wealth and still be most unfortunate, and so with friendly intercourse, family relations, and the rest. The mistake is sometimes made of considering some of these components, *e.g.* wealth, beauty, as evils, though this is generally done in opposition to those who declare them to be the whole of welfare, or at least to those who greatly overvalue them. But they are not evils, but components of welfare that may be ill used and turned into evils if other components are not present also.

It will also be observed that many of the components

[1] *Nic. Eth.*, Bk. X, Ch. IV, Weldon's Translation.

are mutually assistant and complementary, so much so that tabulation is made very difficult. Skill, for instance, is partly a state of the body and partly a state of the mind. Consciousness of personal attractiveness is a good only if it is reasonable or wise; otherwise it becomes vanity which is not a good. Occupation, office, social standing, etc., come quite as much from skill and capacity as from the favour of others. Skill, health, wealth, are due nearly as much to the friendship and trust of others as to the state of one's body and of nature. Finally, all other valuable experiences depend more on the character of the man himself than on any other single factor.

Moreover, it is evident that the different components are of different value. Roughly speaking, they increase in value from first to last, what comes from nature and the body being least valuable, while virtue is most valuable. But each component is a good, whether a greater or a lesser good. These things cannot be shown in a table, but they can be suggested by it, and a careful reader will observe them, and much else besides.

Again, it will be plain that there are degrees of welfare, In no men are all the components fully present, and yet some men are most fortunate, for a man may have fared well though he has fallen short of the full measure of health, wealth, popularity, security, etc., and even although he has fallen short of the full measure of virtue. A man has fared well into whose life a sufficiency of good things has come. Nor is a man's misfortune necessarily great when some of the components are all but wholly absent, *e.g.* wealth, bodily attractiveness, national pride. But the most important components must be present in due measure.

Finally, the purpose of the table is not to compel an understanding of welfare, or make such an understanding unavoidable. The purpose merely is to give assistance towards the understanding of what individual welfare is.

No doubt there are repetitions in the table, probably some components are omitted, — those mentioned could at all events be more concretely described, — and it is certain that a more systematic presentation could and in time will be made. Besides, an extremely vital question remains unanswered — the question of the proportion of the different components proper to constitute welfare. For health, wealth, friends, and other goods may be increased at the expense of virtue, and in general any one may be increased at the expense of any other. How much of each must be present, then, in order that welfare should be enjoyed? This is one of the most difficult of ethical problems. With regard to the relative proportion of virtue and the other components the next chapter will have something to say. But on the whole the question is not capable of an exact answer. This is one of the places where description fails, and insight is the only resource, for, as was mentioned in the last chapter, the end cannot be fully described any more than the virtues can. The insight and judgment of the wise man enable him to secure the right proportion, but even he can lay down no rule or formula by means of which others may attain to the same success. And all that remains for us is to observe the wise man, and profit as much as possible from his example.

§ 2. National Welfare

At present mankind is organized into a number of sovereign states or nations, and the welfare of these nations is essential to the welfare of mankind; the statement being made subject to some limitations to be discussed in the next section. Of course the time may come when the whole of mankind will form one state, but no all-inclusive state now exists, and it is impossible to give a scientific description of human welfare under conditions so largely hypothetical. In order to describe human welfare, national welfare must be described.

National welfare consists of individual welfare combined with social or national vitality. And as regards the first component, the ideal is of course to minister to the welfare of each and every individual who has membership in the State or is under its protection and control (whether the individual be human or animal). But it has not been, and probably never will be, possible to put the ideal literally into practice. To be sure it is owing to human incapacity that closer approximations to the ideal have not been attained, but incapacity, alike in governing and governed, in controlling and controlled, is probably an ineradicable, though it is hoped a diminishingly important, element in the situation, and approximations to the ideal must therefore content us. Some men are immoral, *i.e.* open-eyed enemies of society, other men (and animals) are dangerous blunderers, *i.e.* unconscious enemies to society, and others cannot secure welfare for themselves, and cannot be helped without doing more harm than good. And in many of these situations[1] a tragic choice is unavoidable. Either injury to society and its loyal members must be done or allowed instead of being prevented, or else injury to the immoral or incompetent must be done or allowed. In every society there are men (and animals) whose natures and inclinations are such that, unless restraint, ranging in different cases from physical violence to mild disapproval, is put upon them, they will injure the society and their fellows more or less seriously. And of course the problem is to adjust the conflicting interests of these dangerous individuals and of those whose welfare they threaten. The problem is not a new one, nor is it unfamiliar to us. In considering benevolence and justice a study was made of the best solution man has so far worked out, the solution reached by the wisest nations, who have considered with

[1] Not in all, for where constraint leads to reformation, or restrains from wrong-doing, it may be of benefit to all concerned. Cf. Ch. XII, Internal Public Enemies, and Ch. XIII, §§ 8 and 9.

some impartiality the interests both of criminal and incompetent enemies of society, and of society and its loyal members. According to the principles worked out, as much welfare as is safe is left to the anti-social, and as much welfare as is just is retained by society and its loyal members. The present schemes of benevolence and justice are no doubt faulty, call for improvement, and, if progress continues, will be improved. Nevertheless, for reasons before advanced, they offer the best basis on which to build up sound ideas of how to serve the welfare of the individuals making up any nation. To be sure the interests of all individuals are not equally protected, but the interests of each are justly protected and furthered. And if it cannot be said with full accuracy that the greatest good of the greatest number is sought, it can be said that the aim is to give and allow to each as much welfare as is consistent with securing for others the welfare to which they are entitled. In a word, from the point of view of national welfare, and in so far as individual welfare is one of its components, the morally supreme end is to give to each individual for whom the state is responsible the fullest measure of welfare that he deserves in accordance with the principles of benevolence and justice.

But national vitality is the other component of national welfare, and how is that to be determined? First, it will be difficult, and it is not necessary, to describe separately the national characteristics that make for individual welfare and those that make for or constitute national vitality, and no attempt will be made to separate them. To be sure, individual welfare falls largely among what are called the personal components of national welfare in the table, while the political, social, and material components mentioned in the table belong rather under the head of national vitality, but this is only roughly true, and does not constitute anything like a complete separation. How, then, is national welfare to be determined? On the same

general plan, it may be answered, as was adopted in determining the components of individual welfare. For we can best determine the components of national welfare by discovering what things men and nations value and put forth their efforts to obtain, retain, and increase. And naturally the first resort is to the criminal law, to discover the public interests that states put forth their corporate power to protect. What these public interests are need not be repeated here, but can be read of in Chapter XIII. And then we turn to Chapter XII to discover what social goods men have voluntarily associated themselves together to procure and guard, namely, family, cultural, political, juristic, economic, and benevolent interests. Finally, national budgets are very helpful, as they aid in pointing out what it is that nations support out of their revenues obtained from taxes levied on the people.[1] And here it appears that expenditures are made for land culture, commerce (internal and external), public works, the expenses of legislation and administration, the diplomatic and consular establishments, the care of dependents and defectives, interest payments on the public debt, the reward of deserving public servants, the encouragement of investigation and the keeping of scientific records, the education of the people (both general and technical), sanitation, the support and encouragement of religion and fine arts, the department of posts and telegraphs, the military establishment, and the criminal and civil courts.

And now, arranging the items of national welfare derived from these three sources under the four heads under

[1] The list of objects of public expenditure is taken from M. F. F. Faure's *Bugets Contemporains*, the most complete and conveniently arranged work with which I am acquainted on the subject. This confines us to the objects of public expenditure in France, but there is in fact little divergence in other countries, and if anything the French practice is the best for our purposes, as the paternalism characteristic of that country leads to public support in some directions where private initiative is depended on in other countries.

which they naturally group themselves, the following table is the result: —

TABLE OF COMPONENTS OF NATIONAL WELFARE

Political Components.	Independent or sovereign government. Competent and trustworthy officials. National morality: as seen in the payment of debts, in respect for international law and justice, in fairness to criminals, in care of dependents and defectives, etc. Military power.
Social Components.	Wholesome family life. Cultural activity: in science, religion, fine arts. Political activity and purity. Juristic activity: upholding respect for law and its representatives, and consequent prevalence of law, order, and justice between man and man. Economic activity: trade, commerce, business energy and skill. Benevolent activity: private and organized charity (including societies to protect animals).
Personal Components.	Individual welfare of men and animals (including individual morality): as great welfare as possible for each individual, and the enjoyment of welfare by as many individuals as possible. A large population.
Material Components.	A broad and varied territory. Fertility and productivity of territory. Prosperous and effective "plant."

Remarks on the Table. — Most of the remarks that were made with regard to the table of individual welfare apply here as well. No single component, or group of components short of the whole, insures national welfare. But the components are mutually assistant and complementary, and the presence of certain ones among them is an all but sufficient guaranty of the presence of the others; with all the personal components present, the rest are all but cer-

tain to appear. And, of course, the different components have different values, the personal being unquestionably of the most fundamental importance. National welfare, again, is of different degrees, and a nation may enjoy welfare, though not of a high order, if some components are all but completely absent. Finally, the great difficulty, in this case too, is in determining the relative amounts of the different components necessary for welfare. And the reason is the same as before; insight is necessary in every concrete case and at every stage of national development, in order to solve the problem. And all that a descriptive table can do is to suggest the nature of national welfare; it can in no way give an exhaustive account of it.

Animal Welfare.— Attention is called to the fact that beneficence to animals is a national concern — rather than an international or human concern. It is within states that humane societies and laws exist, both those that concern themselves with protecting domestic animals and those that are concerned with the protection of wild animals.

§ 3. Human and Sentient Welfare

Twenty-six nations signed the articles drawn up at The Hague conference, and these included all of the first-class and most of the second-class powers. In addition there are some other second-class powers, some third-class powers, and an indefinite number of barbarous states and savage tribes. Sentient welfare consists of the welfare of these sovereign societies, including, of course, the welfare of their members, as before described. At least it consists of their welfare in much the same sense and under practically the same limitations as were brought out in showing that national welfare included the welfare of the members of the nation. The interests of states conflict, and international justice is called upon to decide what advantages each state shall forego and what advantages each shall secure. Moreover, some states in some of their activities

and characteristics are injurious to humanity and to sentient beings as a whole, and the conflicting interests of injurious states and of those they threaten must be adjusted. All this calls for constraint, and not infrequently for diminution of the welfare, now of one state, again of another.

But, aside from international law, the problem of international justice has not been worked out, and beyond what has been said in Chapter XII nothing of scientific value can be added here. At present the situation is practically this: there is a struggle for existence among states, as such, and, if it continues, the result will be the survival of the most vital; but the struggle is different from that which prevails among animals, inasmuch as international law so regulates the conflicts that the suffering and harm that falls to individuals is minimized.

In view of our present ignorance all that can be said is, that human and sentient welfare consists of the quantity and kind of welfare for each state that the principles of international benevolence and justice call for. And, bearing in mind what individual and national welfare consist of, sentient welfare so defined is the supreme or ultimate moral end.

CONCLUSION

CHAPTER XVI

The Nature and Value of Morality

Part I investigated conscience as a natural phenomenon, and Part II has been busied with framing as full and accurate a conception as possible of perfect morality. Both tasks are now complete, so far as possible here, and it now remains to gather in mind all that has been said, and to set down the result in compact form, in order that morality may be viewed and estimated as a whole. For there are two main questions which Ethics has to answer as well as it can: (1) What *is* morality? (2) What is the *value* of morality? These questions must now be taken up in turn.[1]

§ 1. What Morality is

Ideal Morality or Perfection. — Perfect morality was described in Part II, and calls for little additional comment here. That man is perfectly moral who is brave, temperate, benevolent, just, and wise, or, in other words, who is so constituted, as to act for the best interests or for the welfare of all sentient beings.

And it is not difficult to imagine a picture of a perfect society, say of an angelic society, made up of perfectly moral beings. Being perfect, each angel would do the least positive harm possible to other angels; no angel would wrong any other or the community of angels; each

[1] The second question was not mentioned in Chapter I in order to avoid confusion.

would render efficiently the services due to others and to the community ; and there would be no need of dealing in any way with public and private wrong-doers, for those classes would not exist. In short, the society would be made up of perfectly and smoothly coöperating individuals, and the welfare attained by each individual would be the greatest possible in view of the existing impersonal and environmental conditions, as distinguished from the characters of the members of society.

But in human societies all individuals fall short, and most individuals fall considerably short, of perfection. This would not prevent any happily constituted individual who happened to be born into a human society from acting with perfect morality. But it does destroy the perfection and smoothness of coöperation in service of all, partly because some men have not the ability and opportunity to secure welfare, and partly because all individuals are and must be somewhat restrained, and some individuals are and must be positively injured, in the interest of ministering to the common welfare ; in a society with imperfect members the classes of the inefficient and of the wrong-doers appear.

In human societies moral perfection for individuals is possible, though non-existent, but the highest moral ideal of perfect and smooth social coöperation in the interest of the greatest attainable welfare for each individual and all individuals is impossible of achievement.

Before leaving this point it may be convenient to state compactly the ideal that objective morality sets before each human being. Since men follow conscience and brutes do not, the simplest injunction takes the form, Be a man and not a brute. Since men with civilized consciences courageously and temperately hold to mercy and abstain from wrong-doing, while savages are cruel and lawless, the second injunction reads, Be a civilized man and not a savage. And since each man with a civilized conscience

gives his fellows their due, concretely fulfilling the duties of every relationship in which his abilities and opportunities place him, the third injunction is, Be true to yourself and your opportunities. As a man deviates farther and farther from objective morality, he becomes, first untrue to himself, then a savage, and finally an animal.

Practical Morality or Duty. — But what does morality *demand* of imperfectly virtuous individuals? The answer to that question is embodied in the doctrine of practical morality or duty, which points out to the imperfectly virtuous man what he is morally called upon to do.

Of course, if at any time a man is not wise and just, — justice, remember, as here used is a virtue of the intellect, — if he does not know fully and concretely what sentient welfare is, if he does not so much as know that sentient welfare is the supreme end, and if he does not know how to serve the supreme end, he should not be called upon for perfect moral knowledge and service at that time.

And if a man is unbenevolent, if at any time he has unsocial or anti-social impulses and inclinations, it is not right or sensible to demand that he should not have those impulses and inclinations at that time.

And if a man is not brave and temperate, if his will is not strong enough to control his aversions and desires, he cannot rightly or logically be called upon to have a stronger will then and there.

Nor can a man wisely and justly be called upon to put forth all the will-power he can command to constrain his actions to morality, in spite of his rebellious impulses and inclinations. Not wisely, because such extreme self-compulsion is damaging to the spontaneous efficiency of character. Not justly, because a man should not be called upon for more than his *proportionate* share of self-restraint and self-constraint. A man should do his whole duty, but he *can* do more than his duty, though to advise him to do more is a "counsel of perfection," and if he follows the

counsel, he is entitled to the exceptional rewards[1] due heroic action. A man is called upon to put forth his proportionate amount of will-power, but to demand more is to be unjust.

In short, a man is not called upon at any time to be wiser, juster, more benevolent, or stronger of will than he is; but he is called upon for his proportionate self-restraining and self-constrained loyalty to his best insight.

So far the description of the demands of duty goes little further than the account given of subjective morality in Chapter III, for it merely says that each individual should follow his best insight, with further specification of the pressure he should put upon himself to be loyal to his best insight. But if the account of objective morality given in Part II is sound, and is understood, an improvement in insight and therefore a higher range of duty is made possible.

Besides, the account of justice suggests a further stretch of duty, with which all are to some extent familiar, and which is of no little importance. For in so far as the individual fails of objective morality, he positively and negatively wrongs his fellows and manifests a character that embodies the danger of further wrong-doing, and then the duties which arise in the presence of imperfect moral character and conduct make their appearance. It accordingly is the duty of imperfectly moral men, not only to repair the wrong they do, but to protect society against themselves, both by putting themselves as far as possible out of the way of further wrong-doing, and by reforming themselves as fully and as quickly as possible. It has already been pointed out that none of these three second-

[1] It is to be regretted that it has not been possible to discuss rewards as punishments have been discussed. Such a discussion would throw not a little light on the nature of morality. It is a more difficult problem than that of punishments, because society distributes rewards without any orderly, systematic, or conscious plan.

ary duties, as they are called, is easy of fulfilment. This is especially true of reparation and of putting one's self out of the way of further wrong-doing, the latter because a man must do his work where he finds it, and the presumption is against the neglect of primary in the interest of secondary duties. And as to the duty of self-reformation, profoundly difficult as that is, it is not in practice as much of an addition to the primary duties as might at first sight appear. For morality is a matter of character, and on the whole the most effective way of improving character is to make the best discernment possible of duty in each concrete case as it arises, and then to do the duty discerned, thus by practice working naturally into the way of juster and wiser conduct. No doubt something can be done by improving the theoretical understanding of duty, but moral character is probably more healthily built up by the practice of conscientiously seeking and following the best attainable insight in each case. Perfectionists are substantially right in declaring that duty consists in following conscience and in improving conscience as much as possible.[1] But when improvement of conscience and self-improvement generally is unduly stressed, a man is likely to disorganize his character, and is sure to give himself over to that spiritual selfishness which leads him to value his own virtue above the common welfare.

Duty, practical morality, then consists in following one's conscience with one's full share of self-control, including the making of reparation, protecting society, and reformation of self. But full reparation cannot often be made; taking a firmer hold on one's self is generally a more effective protection for society than the abandonment of primary duties, and doing duty is on the whole the best way of learning duty.

[1] Perfectionists have a doctrine of duty as well as a doctrine of the end. Here the former doctrine is in mind, while in earlier chapters the latter was considered.

§ 2. Why enforce Morality?

The question of this section naturally breaks up into two questions, and each of these in turn into two further questions. For the main question means, Why enforce morality on others? and also, Why enforce morality on oneself? And each of these questions may be interpreted to mean, Why should or ought morality to be enforced? and, What profit, gain, or interest is there in enforcing morality? The questions before us accordingly are, Why ought men to enforce morality on their fellows? Why ought any man to hold himself to morality? What interest have men in the morality of their fellows? and, What interest has any man in his own morality? The first two questions raise the same issues, and need not be considered separately. The last two are distinct, and call for separate treatment. With the answers to these questions the book will close.

Why ought Morality to be enforced on Self and Others? — This question is explicitly stated in order that its absurdity may be fully grasped. Morality consists in constraining oneself to duty, and in part in encouraging and upholding others in dutiful conduct, including the visiting of punishment, in the widest sense of the word, on oneself and on others when undutiful. Or, in other words, men ought, among other things, to enforce morality on themselves and on others. So the question asked amounts to this, Why ought men to do what they ought to do? a question that needs no answer.

Now as regards the obligation of constraining oneself to practical morality, the consideration just advanced is conclusive. One's duty is to do one's duty: that is axiomatic. On the other hand, the question as to enforcing morality on others may mean, What evidence is there to show that men should enforce morality on their fellows, and to show how far the duty, if it exists, extends? That question is

sensible and legitimate, and deserves an answer. But all that can here be said upon it has been said in Chapters XII and XIII.

Of course, any individual may legitimately ask in any particular contingency, not, Why should I do my duty? but, How do I know this *is* my duty? But here again all has already been said that there is space for.

What Interest have Men in the Morality of their Fellows? — This question is not difficult to answer. Assuming for the present — though the assumption is by no means well founded — that each individual would find profit in immorality sufficiently skilful to escape most of the penalties of wrong-doing, the greatest possible morality of the bulk of his fellows would still be to his interest. Were it not for the morality of primitive men, no man would now be in existence. Were it not for the improving morality of our savage and barbarous ancestors, including occasional acts of profound wisdom and heroic self-sacrifice, no man would be given the advantages of civilization to enjoy. Were it not for the continued morality of a high order of the bulk of our contemporaries, the truly wonderful benefits of civilization would in part perish from neglect, and in part be destroyed in lawlessness, disorder, and violence. All security would disappear, all peace would vanish, all material comforts and prosperity would crumble away, and all intellectual and spiritual treasures would be destroyed. And their places would be taken by insecurity, ruin, havoc, destruction, and the rude, violent, unbridled passions of men who had forsaken humanity and taken to brutality, a brutality worse than that of the brutes, because guided by perverted intelligence. Of course the deflection from morality might not be so extreme, but any considerable lowering of moral standards would work its proportionate amount of disaster.

It is no exaggeration to say, that of all of society's possessions, that of greatest value to the individual is the

maintenance and improvement of the morality of the bulk of his fellows. That is the foundation upon which the welfare of all individuals rests. Here duty and interest join hands, and urge all to uphold and improve the morality of the community.

What Interest has Man in his Own Morality? — This is a question of more than ordinary difficulty and complexity, and while an answer will be attempted, it is offered in a tentative spirit, as a contribution to the solution of the question rather than as a complete solution. The answer to the question would seem to vary with two factors, (1) the approximation to perfection of the morality that obtains in any community, and (2) the character of the individual in each case.

(1) Every actual and every humanly conceivable system of morality is imperfect. No outline scheme, and no application of any scheme, can be faultless. Now if the question before us were merely theoretical, this fact would be relatively unimportant, for the question of the interest of the individual in his own morality under a perfect system of morality would be up for consideration, and as there is only one perfect system, the consideration of relative perfection would be out of place, except in so far as the system was not actually put into practice. But the question before us is practical. We want to know whether it is to the interest of a man to be moral, in the sense in which morality is understood by the representative opinion and practice of his day and country. This is not a perfectly sharp question, and cannot be sharply answered, but it certainly involves the relative perfection of moral systems.

When the problem is thus practically conceived, morality is the system of conduct approved of in any community as most conducive to the common good, and the question is, whether it is to the interest of the individual to accord his action to this scheme in each case. Now observe that such schemes vary from great rigidity to the utmost laxity.

Some schemes are devised with sternly intent gaze on the ultimate goal, the common good, and are so nervously fearful of any danger thereto that individuals with qualities of dangerous omen are ruthlessly restrained, with little regard to their private interests. In other schemes the common good is distributively rather than collectively conceived, and there is a tender, even a sentimental concern for each and every individual, and only when an individual is actually very injurious is restraint put upon him. In schemes of the first type the element of collective vitality, in schemes of the second type the element of individual welfare, is chiefly considered. And of course, when the prevalent and accepted morality leans towards the second type, the individual's interests are much more likely to coincide with morality, than when the morality accepted and recognized is of the first type.

Again, the schemes of morality devised present all degrees and kinds of intelligence and unintelligence, aside from whether they are rigid or loose. Restrictions may be imposed with a view to the common good which do not in fact conduce to that end, or which unduly or unnecessarily and unintelligently sacrifice individuals, when the end could be served equally well without such sacrifice. Imperfections of all kinds in alien moral systems are easily detected, but reasonably fortunate individuals are not easily awakened to consciousness of imperfections in the moral systems in which they have been brought up and under which they live, especially when these imperfections demand unnecessary sacrifice of other classes rather than of the class to which they belong. Were the views of women in China more influential in the formation of moral opinion, it is not likely that Chinese ladies would long be required to torture their feet in obedience to moral demand, for that demand is a moral demand among the Chinese. And the same is true of many other demands of a more serious character, even in civilized countries.

These suggestions will sufficiently indicate that it may not be to the interest of the individual to be moral according to the prevalent conception of morality of his day and country. Moreover, they indicate that there are items in *every* human moral system which demand of individuals actions that it is not to the latter's interest to perform. Finally, they suggest that, roughly speaking, in proportion to the imperfection of moral systems the duties of individuals and their interests are likely to diverge. This must be true. For the aim of morality is to serve the interests of all, and the more imperfect the morality, the fewer the individuals whose interests are served, and the less efficiently, on the whole, each man's interests are served. The closest possible approximation to a coincidence between each man's duty and his interest will be attained when a perfect morality is conceived and perfectly applied. Meantime the coincidence is only approximate, though in the case of civilized systems of morality a very good approximation for most men.

(2) Again, the character of the individual is a factor that must be considered before it is possible to determine whether it is to an individual's interest to do his duty.

Limiting inquiry to modern civilized societies, in which we are most interested, it is plainly to the interest of the men who approximate most closely to virtue to do their full duty. Their inclinations, by themselves and without aid from the will, impel to conduct that falls little short of being dutiful. The rewards society attaches to dutiful conduct, and the penalties it attaches to undutiful conduct, easily render duty the prudent choice. Finally, personal morality has an intrinsic value as an important element of welfare, and sacrifices very much greater than have to be made would therein find ample compensation.

And more is true. There is little doubt but that it is to the interest of the bulk of the citizens of modern civilized nations to do their full duty. The proportionate amount of

effort they would have to put forth in order to do their duty would not be so excessive as to counterbalance the rewards of dutiful conduct, and certainly not so excessive as to counterbalance these rewards *together with* the contribution to their welfare that dutifulness on their part would secure. If these men act like savages or barbarians, society rightly treats them as such, and such treatment is injurious to them. Moreover, to choose to be a barbarian, a savage, even more, to choose to be an animal, when one can by wholesome effort make a civilized man of one's self, is to make at once an unworthy and an imprudent choice. Animals, savages, and barbarians know no better, and are condemned to remain animals, savages, and barbarians; moreover, not knowing any better, their loss is not made greater by being a conscious loss. But most men in modern civilized societies do know better, and if they condemn themselves to animal or uncivilized lives, they are self-degraded, and have the intolerable sense of self-degradation. Finally, animals, savages, and barbarians have not reaped and enjoyed the benefits of civilization, and their failure to make return to society for the benefits of civilization is not, as it is in the case of most civilized men, an ingratitude intensifying self-degradation. From any point of view from which the question is considered, it is to the interest of the bulk of reasonably fortunate civilized men to do their full duty, instead of engaging in unworthy haggling to escape full payment of their moral debt.

But there are men in civilized communities with regard to whom we are reluctantly compelled to answer the question negatively. Fate has not been kind to them. Civilized conditions are of relatively little advantage to them; born in civilized communities, the hardness, the lawlessness, the brutality of barbarous or even of savage life would be more congenial to them, and would offer a more fitting environment for the play of their powers and the attainment of welfare. Inheriting a debased tempera-

ment, surrounded by conditions that develop an uncivilized character, the impulses and inclinations of a man of the type under consideration are anti-social in a civilized community. Moreover, the relatively high morality he sees about him makes no appeal to him; he does not feel it to be high, he rather feels it to be weak, foolish, lacking in virile self-assertion.[1] And therefore there is at once little inner incentive in such a man to make the great effort needed in order to compass morality, and there is little hope that sufficient effort could be put forth with sufficient intelligence to insure moral conduct.

Failure to make return to society for the benefits of civilization is not ingratitude in such a man, for civilization does not benefit as much as it restrains him. Failure to exercise will-power, heroic will-power to constrain himself to morality, is not self-degradation, for he is already a barbarian, a savage, an animal. Failure to seek morality as an end is not, humanly speaking, an imprudence, for morality does not and cannot be expected to appeal to him as a good, until he is truly regenerated. The only pressure that can impel, or that can be expected to impel him towards morality, or rather the outward observance of morality, is the pressure of pain, disadvantage, and restraint, present and prospective. Driven by tragic necessity, society imposes penalties upon unfortunate men of this type, who are so sadly out of place, and the fear of these penalties may restrain them from outward wrong-doing, though it can seldom constrain them to the morality of inner good purposes. Dutiful conduct misfits their character too painfully to be advantageous in and by itself. But society by penalizing wrong-doing may present to them a choice of evils, the lesser of which is conformity to rudimentary and external morality.

Accordingly, some individuals are like tigers or ser-

[1] With regard to such men Fr. Nietzsche's point of view is, I think, well justified.

pents in human form, like Bushmen in civilized garb, like Vandals of civilized appearance. For what purpose they have been put among us, we can but dimly surmise. Possibly a more ingenious, a wiser, a profounder morality would do away with this unfortunate class entirely. Possibly we should look upon the presence and menace of members of the class, and they upon our presence and restraint, as storms, pestilences, and other calamities of nature are looked upon by the wise. Or possibly — probably let us hope — a wiser metaphysic and religion of the future will find the significance of this deepest of moral tragedies, which ethical science can indeed discern, but cannot hope to understand or explain.

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